

Conference Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

CHAPTER 281

HOUSE BILL 2312

AN ACT

AMENDING SECTIONS 3-108, 3-214.01, 3-218, 3-233, 3-234, 3-266, 3-269, 3-344, 3-345, 3-350, 3-354, 3-415, 3-417, 3-447, 3-448, 3-449, 3-449.04, 3-450, 3-466, 3-468.04, 3-468.06, 3-484, 3-489, 3-491, 3-492, 3-498, 3-521, 3-526.04, 3-526.06, 3-584, 3-590, 3-592, 3-710, 3-716, 3-717, 3-911, 3-913, 3-1294, 3-1350, 3-1372, 3-1377, 3-1402, 3-1403, 3-1721, 3-2602, 3-2604, 3-2607, 3-2913 AND 5-113, ARIZONA REVISED STATUTES; AMENDING SECTIONS 3-108, 3-214.01, 3-218, 3-233, 3-234, 3-266, 3-269, 3-344, 3-345, 3-350, 3-354, 3-415, 3-417, 3-447, 3-448, 3-449, 3-449.04, 3-450, 3-466, 3-468.04, 3-468.06, 3-484, 3-489, 3-491, 3-492, 3-498, 3-521, 3-526.04, 3-526.06, 3-584, 3-590, 3-592, 3-710, 3-716, 3-717, 3-911, 3-913, 3-1294, 3-1350, 3-1372, 3-1377, 3-1402, 3-1403, 3-1721, 3-2602, 3-2604, 3-2607, 3-2913 AND 5-113, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; RELATING TO AGRICULTURAL TRUST FUNDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 3-108, Arizona Revised Statutes, is amended to
3 read:

4 3-108. Administrative support fund; use; exemption

5 A. A department of agriculture administrative support fund is
6 established. All monies collected pursuant to any interagency agreement with
7 the department pursuant to ~~section 3-554, subsection A,~~ section 3-588,
8 subsection A and section 3-1084, subsection A shall be deposited, pursuant to
9 sections 35-146 and 35-147, in the fund.

10 B. All monies collected pursuant to any interagency agreement with the
11 department in accordance with section 3-468.03, subsection A and section
12 3-526.03, subsection A shall be deposited in the ADMINISTRATIVE SUPPORT fund
13 or deposited in the citrus, fruit and vegetable revolving TRUST fund
14 established by section 3-447 pursuant to the terms of the interagency
15 agreement. Deposits IN THE ADMINISTRATIVE SUPPORT FUND shall be made
16 pursuant to sections 35-146 and 35-147.

17 C. Monies in the fund are continuously appropriated and exempt from
18 the provisions of section 35-190 relating to lapsing of appropriations.

19 Sec. 2. Section 3-214.01, Arizona Revised Statutes, is amended to
20 read:

21 3-214.01. Dangerous plants, pests and diseases trust fund

22 A. A dangerous plants, pests and diseases TRUST fund is established
23 FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE
24 AGRICULTURAL PROGRAM ESTABLISHED BY THIS ARTICLE. All monies collected under
25 the provisions of this article except civil penalties assessed pursuant to
26 section 3-204, 3-205, 3-205.02 or 3-215.01 shall be deposited, ~~pursuant to~~
27 ~~sections 35-146 and 35-147,~~ in the dangerous plants, pests and diseases TRUST
28 fund.

29 B. The director shall administer the TRUST fund AS TRUSTEE. THE STATE
30 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES
31 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS
32 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER
33 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from
34 the director, the state treasurer shall invest and divest ~~monies in the~~ ANY
35 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided by section
36 SECTIONS 35-313 AND 35-314.03, and monies earned from investment shall be
37 credited to the TRUST fund.

38 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM
39 ESTABLISHED BY THIS ARTICLE. All monies in the dangerous plants, pests and
40 diseases TRUST fund are to be used by the department ~~subject to legislative~~
41 ~~appropriation~~ EXCLUSIVELY to carry out the provisions of this article,
42 including salaries, fees and office, administrative, bonding and travel
43 expenses incurred.

1 D. The unexpended and unencumbered balance of monies, if any,
2 remaining in the dangerous plants, pests and diseases TRUST fund at the end
3 of each fiscal year shall not revert to the state general fund.

4 Sec. 3. Section 3-218, Arizona Revised Statutes, is amended to read:

5 3-218. Citrus budwood certification; fee

6 A. The director may direct a state citrus budwood certification
7 program. Under the program, inspectors may:

- 8 1. Monitor the fumigation of blocks of citrus trees.
- 9 2. Monitor the transplanting of seedlings from the seed bed.
- 10 3. Monitor the cutting of budwood from mother blocks or other
11 certified blocks within a twenty-four hour period.
- 12 4. Tag certified citrus trees with certified tags.
- 13 5. Map blocks in a certified nursery.
- 14 6. Audit records that are kept by the nursery and by private
15 inspection associations.

16 B. The director may assess a fee of not more than ten cents per
17 budwood to cover the costs of implementing the citrus budwood certification
18 program. The director shall establish the amount of the fee by rule pursuant
19 to a cooperative agreement among the department, private inspection
20 associations and the university of Arizona, Yuma Mesa agricultural center.
21 The director shall deposit, ~~pursuant to sections 35-146 and 35-147~~, revenues
22 collected from the fee in the dangerous plants, pests and diseases TRUST fund
23 established by section 3-214.01.

24 Sec. 4. Section 3-233, Arizona Revised Statutes, is amended to read:

25 3-233. Powers and duties; fees; penalty

26 A. For the purpose of carrying out this article, the director may:

27 1. In order to have access to seeds and the records pertaining to
28 seeds subject to this article and the rules adopted under this article, enter
29 upon:

30 (a) Any established plant, warehouse or place of business during
31 customary business hours.

32 (b) Any truck or other conveyance operated on land, on water or in the
33 air on probable cause or reasonable suspicion to believe that a violation of
34 this article has occurred.

35 2. Issue and enforce a written cease and desist order to the owner or
36 custodian of any lot of agricultural, vegetable or ornamental plant seed
37 ~~which~~ THAT the director finds is in violation of this article, as provided in
38 section 3-238, and any lot or lots of seed sold, or transported for sale,
39 ~~which~~ THAT do not meet all requirements of the plant variety protection act
40 (P.L. 91-577; 84 Stat. 1542; 7 United States Code sections 2321 through
41 2582).

42 3. Provide through the state agricultural laboratory for seed testing
43 facilities, employ qualified persons and incur expenses necessary to comply
44 with this article.

1 4. Through the state agricultural laboratory:
2 (a) Provide for making purity, germination, noxious weed, tetrazolium
3 and pathology tests of seeds for farmers and dealers on request pursuant to
4 rules prescribed by the director governing such testing.
5 (b) Collect charges for the tests as prescribed by the director.
6 5. Cooperate with the United States department of agriculture and
7 other agencies in seed law enforcement.
8 6. Revoke, suspend, restrict, deny or choose not to renew a license
9 issued under this article or fix periods and terms of probation for a license
10 holder after a hearing at which the license holder is found by a
11 preponderance of the evidence to have violated this article or any of the
12 rules adopted under this article.
13 7. Establish by rule fees that are sufficient to cover the costs of
14 interstate and international exportation inspection activities under section
15 3-232, subsection A, paragraph 1, but annually not more than one dollar fifty
16 cents per acre. Monies received under this paragraph shall be deposited in
17 the seed law TRUST fund pursuant to section 3-234.
18 B. For the purposes of this article, the director, after an
19 opportunity for a hearing, shall establish and collect the following fees:
20 1. For a seed dealer's license, not more than fifty dollars per year.
21 2. For a labeler's license, not more than five hundred dollars per
22 year.
23 C. The director shall assess a license holder who does not submit the
24 annual license renewal fees to the department by July 1 a penalty of ten per
25 cent of the amount of the license fee per month for not more than three
26 months. Penalties collected under this subsection shall be deposited in the
27 seed law TRUST fund pursuant to section 3-234.
28 Sec. 5. Section 3-234, Arizona Revised Statutes, is amended to read:
29 3-234. Seed law trust fund
30 A. A seed law TRUST fund is established FOR THE EXCLUSIVE PURPOSE OF
31 IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL PROGRAM ESTABLISHED
32 BY THIS ARTICLE. All monies collected pursuant to section 3-233 shall be
33 deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the seed law TRUST
34 fund.
35 B. The director shall administer the TRUST fund AS TRUSTEE. THE STATE
36 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES
37 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS
38 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER
39 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from
40 the director, the state treasurer shall invest and divest ~~monies in the~~ ANY
41 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided by ~~section~~
42 SECTIONS 35-313 AND 35-314.03, and monies earned from investment shall be
43 credited to the TRUST fund. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND
44 UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE
45 STATE GENERAL FUND.

1 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM
2 ESTABLISHED BY THIS ARTICLE. All monies in the seed law TRUST fund are
3 ~~subject to legislative appropriation to the department~~ to be spent as
4 directed by the director to carry out the provisions of this article.

5 Sec. 6. Section 3-266, Arizona Revised Statutes, is amended to read:

6 3-266. Annual reports and publications: membership in
7 professional organizations

8 A. The director may provide for publishing at such times and in such
9 form as he THE DIRECTOR deems proper information concerning the sale of
10 fertilizer materials together with such data on their production and use as
11 he THE DIRECTOR considers advisable, and a report of the monies received and
12 expended, but the information concerning production and use of fertilizer
13 materials shall not disclose the operations of any one person. Reports of
14 chemists' findings based on official samples of each brand of fertilizer
15 material sampled and analyzed during the year as compared to the guaranteed
16 chemical analysis for each such fertilizer material shall be published
17 annually as promptly as possible after January 1 each year.

18 B. The director may authorize employees of the division to join and
19 subscribe to any state, district, regional or national organizations or
20 publications relating to sale and distribution or control of sale and
21 distribution of fertilizer materials, and attend state, district, regional
22 and national meetings relating to sale and distribution or control of sale
23 and distribution of fertilizer materials.

24 C. Expenses authorized by this section shall be paid from and limited
25 by the fertilizer materials TRUST fund.

26 Sec. 7. Section 3-269, Arizona Revised Statutes, is amended to read:

27 3-269. Fertilizer materials trust fund

28 A. The fertilizer materials TRUST fund is established FOR THE
29 EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL
30 PROGRAM ESTABLISHED BY THIS ARTICLE. Except as provided in section 3-272,
31 subsection B, paragraph 2, all monies collected under the provisions of this
32 article shall be deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the
33 TRUST fund.

34 B. The director shall administer the TRUST fund AS TRUSTEE. THE STATE
35 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES
36 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS
37 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER
38 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from
39 the director, the state treasurer shall invest and divest ~~monies in the~~ ANY
40 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided by ~~section~~
41 SECTIONS 35-313 AND 35-314.03, and monies earned from the investment shall be
42 credited to the TRUST fund.

43 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM
44 ESTABLISHED BY THIS ARTICLE. The TRUST fund shall be used solely for the

1 ~~purpose of administering the provisions~~ PURPOSES of this article upon ON the
2 order of the director.

3 D. The fertilizer materials TRUST fund shall be exempt from the
4 provisions of section 35-190 relating to lapsing appropriations. SURPLUS
5 MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE AT THE END OF THE
6 FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL FUND.

7 Sec. 8. Section 3-344, Arizona Revised Statutes, is amended to read:

8 3-344. Advisory committee; membership; appointment; duties;
9 uniformity of labeling and standards of pesticides

10 A. The director may appoint an advisory committee as needed to assist
11 and advise the director and associate director in adopting technical rules.
12 The director shall designate the chairman. Meetings of the committee shall
13 be held upon call of the associate director or director. Members of the
14 committee shall serve without compensation, but shall be entitled to
15 reimbursement for expenses of travel and subsistence incurred in the
16 performance of their duties, which shall be paid from and limited by the
17 pesticide TRUST fund.

18 B. In order to avoid confusion endangering the public health, which
19 would result from diverse requirements, particularly as to the labeling and
20 coloring of pesticides, and to avoid increased costs to the public due to the
21 necessity of complying with such diverse requirements in the manufacture and
22 sale of such pesticides, it is desirable that there should be uniformity
23 between the requirements of the several states and the federal government
24 relating to such pesticides. To this end, the director may after a hearing
25 adopt rules applicable to and in conformity with primary standards
26 established by this article as have been or may be prescribed by federal
27 agencies with respect to pesticides.

28 Sec. 9. Section 3-345, Arizona Revised Statutes, is amended to read:

29 3-345. Publications; membership in professional organizations

30 A. The department may publish, at such times and in such forms as the
31 director deems proper, information concerning the production and use of
32 pesticides and reports of chemists' findings based on official samples taken
33 of pesticides sold within the state as compared with guaranteed analysis
34 ANALYSES registered under section 3-351.

35 B. The director may authorize employees of the department to:

36 1. Join and subscribe to any state, district, regional or national
37 organizations or publications relating to and dealing with pesticides.

38 2. Attend state, district, regional and national meetings relating to
39 pesticides that in the director's discretion may be necessary or for the best
40 interests of those affected by this article.

41 C. Expenses authorized by this section shall be paid from and limited
42 by the pesticide TRUST fund.

1 Sec. 10. Section 3-350, Arizona Revised Statutes, is amended to read:
2 3-350. Pesticide trust fund

3 A. The pesticide TRUST fund is established FOR THE EXCLUSIVE PURPOSE
4 OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL PROGRAM
5 ESTABLISHED BY THIS ARTICLE. Except as provided in section 3-351, subsection
6 D, paragraph 2, all monies collected under the provisions of this article
7 shall be deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the TRUST
8 fund.

9 B. The director shall administer the TRUST fund AS TRUSTEE. THE STATE
10 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES
11 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS
12 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER
13 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from
14 the director, the state treasurer shall invest and divest monies ~~in the~~ ANY
15 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided by ~~section~~
16 SECTIONS 35-313 AND 35-314.03, and monies earned from investment shall be
17 credited to the TRUST fund.

18 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM
19 ESTABLISHED BY THIS ARTICLE. The TRUST fund shall be used solely for the
20 ~~purpose of administering the provisions~~ PURPOSES of this article ~~upon~~ ON the
21 order of the director.

22 D. The pesticide TRUST fund shall be exempt from the provisions of
23 section 35-190 relating to lapsing appropriations. SURPLUS MONIES, INCLUDING
24 ANY UNEXPENDED AND UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT
25 REVERT TO THE STATE GENERAL FUND.

26 Sec. 11. Section 3-354, Arizona Revised Statutes, is amended to read:

27 3-354. Cease and desist orders; condemnation and destruction or
28 sale of noncomplying pesticides or devices

29 A. When the director finds from investigation that any pesticide or
30 device being distributed or delivered for transportation or transported in
31 intrastate commerce or between points within the state through any point
32 outside this state does not meet the requirements of this article as follows,
33 the director may take the action prescribed by subsection B of this section:

34 1. In the case of a pesticide:

35 (a) If it is adulterated or misbranded.

36 (b) If it has not been registered, if necessary, under section 3-351.

37 (c) If it fails to bear on its label the information required by law.

38 (d) If it is a white powder pesticide and is not colored as required
39 under this article.

40 2. In the case of a device, if it is misbranded.

41 B. Upon the discovery of any of the facts set forth in subsection A of
42 this section:

43 1. The director may serve the person violating this article with a
44 cease and desist order requiring the person, on receiving the notice, to

1 immediately cease and desist the violation. The order shall be served by any
2 method of service authorized by the Arizona rules of civil procedure.

3 2. The department may issue and serve a written cease and desist order
4 on the owner or custodian of any pesticide or device found to be in violation
5 of this article. The pesticide or device shall not be sold, used or removed
6 until this article has been complied with and the pesticide or device has
7 been released in writing by the director or the violation has been otherwise
8 disposed of as provided in this article by a court of competent jurisdiction.

9 3. If the director discovers any pesticide or device that is in
10 violation of this article, and the owner or custodian is not available for
11 service of the order, the director may attach the order to the pesticide or
12 device and the pesticide or device shall not be sold, used or removed until
13 this article has been complied with and the pesticide or device has been
14 released in writing by the director or the violation has been otherwise
15 disposed of as provided in this article by a court of competent jurisdiction.

16 C. After a cease and desist order is served on any person, either that
17 person or the director may file an action in the superior court in the county
18 in which a violation of this article is alleged to have occurred for an
19 adjudication of the alleged violation. The court may issue temporary or
20 permanent injunctions, mandatory or restraining, and intermediate orders it
21 deems necessary or advisable. The court may order condemnation of any
22 pesticide or device that does not meet the requirements of this article. The
23 action shall be tried de novo.

24 D. If the article is condemned, it shall be disposed of, after entry
25 of decree, by destruction or sale as the court directs, and the proceeds, if
26 the article is sold, less legal costs, shall be paid into the pesticide TRUST
27 fund. On payment of costs and execution and delivery of a good and
28 sufficient bond conditioned so that the article shall not be disposed of
29 unlawfully, the court may direct that the article be delivered to the owner
30 of the article for relabeling or reprocessing as the case may be.

31 E. When a decree of condemnation is entered against the article, court
32 costs, fees and storage and other proper expenses shall be awarded against
33 the person, if any, intervening as claimant of the article.

34 Sec. 12. Section 3-415, Arizona Revised Statutes, is amended to read:

35 3-415. Administrative services; reimbursement

36 A. The marketing commission or marketing committee may employ staff,
37 to serve at the pleasure of the commission or committee, and may prescribe
38 the terms and conditions of employment of employees as necessary to perform
39 the functions prescribed by this article, the marketing order or marketing
40 agreement. The commission or committee may provide, at a rate or amount
41 determined by the commission or committee, compensation, vehicles and vehicle
42 expense, health care benefits, life insurance, retirement and any other cost
43 or expense associated with employment. Reimbursement for travel and
44 subsistence expenses for commission or committee employees shall be in the
45 amount prescribed by title 38, chapter 4, article 2. All employees of the

1 commission or committee are exempt from title 38, chapter 4, articles 1 and 4
2 ~~and chapter 5, article 2~~ and title 41, chapter 4, articles 5 and 6 and are
3 not under the jurisdiction of the department of administration.

4 B. The commission or committee may also enter into an interagency
5 agreement pursuant to title 11, chapter 7, article 3 with the department to
6 provide necessary administrative services to the commission or committee
7 including:

8 1. Providing secretarial and other services necessary for the
9 commission or committee to carry out its activities.

10 2. Establishing separate operating accounts for the commission or
11 committee.

12 3. Providing necessary financial and accounting services to the
13 commission or committee including the issuance of checks, payment of bills
14 approved by the commission or committee, annual audits, expenditure and
15 receipt reports whether monthly or annually, preparation of annual budget and
16 any other activities requested by the commission or committee.

17 4. Receiving mail and other communication for the commission or
18 committee.

19 5. Receiving monies authorized under this article for
20 deposit, ~~pursuant to sections 35-146 and 35-147~~, in the appropriate TRUST
21 funds FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING
22 THE RESPECTIVE MARKETING ORDER OR MARKETING AGREEMENT. THE COMMISSION OR
23 COMMITTEE SHALL ADMINISTER THE TRUST FUND AS TRUSTEE. THE STATE TREASURER
24 SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED
25 IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED IN
26 SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE
27 STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE COMMISSION
28 OR COMMITTEE, THE STATE TREASURER SHALL INVEST AND DIVEST ANY TRUST FUND
29 MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS 35-313 AND 35-
30 314.03, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE TRUST
31 FUND. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM ESTABLISHED
32 BY THE MARKETING ORDER OR MARKETING AGREEMENT. THE TRUST FUND SHALL BE USED
33 SOLELY FOR THOSE PURPOSES ON THE ORDER OF THE COMMISSION OR COMMITTEE.
34 SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE AT THE END
35 OF THE FISCAL YEAR OR AT THE TERMINATION OF THE MARKETING ORDER OR AGREEMENT,
36 DO NOT REVERT TO THE STATE GENERAL FUND.

37 6. Accepting donated monies on behalf of the commission or committee
38 to be credited to the account of the commission or committee.

39 7. Providing space for the meetings of the commission or committee.

40 8. Providing any other administrative services that the commission or
41 committee requests or finds necessary.

42 C. If the department performs any function under this article, it acts
43 as the agent of the marketing commission or marketing committee and has no
44 authority or control over the commission or committee or the commission's or
45 committee's employees or assets. The commission or committee shall reimburse

1 the department for any administrative services the department provides from
2 the monies received under the marketing order or marketing agreement in an
3 amount agreed on by the commission or committee and the director. Any
4 services provided by citrus, fruit and vegetable standardization or the
5 department in the normal scope of services are not subject to reimbursement
6 from a marketing commission or marketing committee.

7 Sec. 13. Section 3-417, Arizona Revised Statutes, is amended to read:

8 3-417. Assessments; collection; budget

9 A. The annual assessment rate shall not exceed five per cent of the
10 annual gross sales dollar value of the affected commodity determined by the
11 preceding marketing season. Not more than two per cent of the annual gross
12 sales dollar value of the affected commodity may be used to pay costs
13 associated with administering the marketing order. Assessment rates may be
14 set on a per carton or equivalent basis.

15 B. Each marketing order shall state a method of collection. ~~1-~~

16 ~~1-~~ For the initial year, an advance deposit of not more than ten per
17 cent of the total assessments owing may be collected from affected persons
18 based on the preceding marketing season.

19 ~~2-~~ If the marketing order affects producers only or if the marketing
20 order affects both producers and shippers, the shipper shall withhold the
21 assessments owed by the producer pursuant to the marketing order. The
22 shipper is a trustee of the assessments until they are paid to the marketing
23 commission. If the marketing order affects producers only, a producer is
24 responsible for paying the assessments unless the assessments are withheld
25 for payment by the shipper.

26 C. Each affected person shall keep a complete and accurate record of
27 all of the affected commodity sold by the affected person. The records shall
28 contain the information required to be kept for the citrus, fruit and
29 vegetable revolving TRUST fund pursuant to articles 2 and 4 of this chapter
30 and rules adopted pursuant to those articles.

31 D. Except for the first year of operation, on or before July 1 of each
32 year, the marketing commission or marketing committee shall set an assessment
33 according to the maximum rate of assessment established by this article, the
34 marketing order or marketing agreement. Before establishing the assessment
35 rate, the commission or committee shall establish an annual budget. The
36 budget is effective on approval of the commission or committee.

37 E. Title 41, chapter 6 does not apply to setting and collecting the
38 assessment under this section, but the commission or committee shall provide
39 fifteen days' advance notice of the meeting at which the assessment will be
40 adopted and the amount of the proposed assessment. The commission or
41 committee shall receive public testimony at the meeting regarding the
42 assessment.

1 Sec. 14. Section 3-447, Arizona Revised Statutes, is amended to read:
2 3-447. Citrus, fruit and vegetable trust fund; administration

3 A. The citrus, fruit and vegetable revolving TRUST fund is established
4 ~~consisting~~ FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND
5 SUPPORTING THE AGRICULTURAL PROGRAM ESTABLISHED BY THIS ARTICLE AND ARTICLE 4
6 OF THIS CHAPTER. THE TRUST FUND CONSISTS of revenues from assessments and
7 other monies designated for deposit in the TRUST fund ~~in~~ BY this article and
8 article 4 of this chapter ~~in order to provide the necessary monies to enforce~~
9 ~~this article and article 4 of this chapter~~. The TRUST fund shall be used
10 solely for the purpose of administering AND ENFORCING the provisions of this
11 article and article 4 of this chapter.

12 B. ~~Monies in the fund may be invested~~ THE DIRECTOR SHALL ADMINISTER
13 THE TRUST FUND AS TRUSTEE. THE STATE TREASURER SHALL ACCEPT, SEPARATELY
14 ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY,
15 WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED IN SECTION 35-310 AND
16 WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY
17 EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE DIRECTOR, THE STATE
18 TREASURER SHALL INVEST ANY TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY
19 pursuant to ~~section~~ SECTIONS 35-313 AND 35-314.03, and all interest earned on
20 these monies shall be credited to the TRUST fund.

21 C. THE BENEFICIARIES OF THE TRUST ARE THE AGRICULTURAL PROGRAMS
22 ESTABLISHED BY THIS ARTICLE AND ARTICLE 4 OF THIS CHAPTER.

23 D. Monies in the TRUST fund are exempt from the provisions of section
24 35-190 relating to lapsing of appropriations. SURPLUS MONIES, INCLUDING ANY
25 UNEXPENDED AND UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT
26 REVERT TO THE STATE GENERAL FUND.

27 ~~B.~~ E. The department shall make a detailed accounting on or before
28 November 1 of each year of all monies paid into and disbursed from the
29 citrus, fruit and vegetable revolving TRUST fund during the preceding fiscal
30 year and transmit the report to the citrus, fruit and vegetable advisory
31 council on or before December 1.

32 ~~C.~~ F. Any monies remaining unexpended in the TRUST fund on June 30
33 each year shall be carried forward to the following year, and the supervisor
34 shall take that amount into account in computing the assessments for that
35 year.

36 Sec. 15. Section 3-448, Arizona Revised Statutes, is amended to read:
37 3-448. Assessments; procedures; failure to pay; penalty and

38 interest; hearing

39 A. In order to provide the necessary monies to enforce this article
40 and article 4 of this chapter, the supervisor shall assess a charge against
41 each shipper in an amount of not more than one and one-fourth cents per
42 standard carton, or the equivalent weight, of each kind of fruit and
43 vegetable, including citrus, shipped and regulated under this article and
44 article 4 of this chapter. For bulk shipments of citrus used for by-products

1 with destinations both inside and outside this state a charge is assessed of
2 not more than two dollars for each lot.

3 B. All monies collected from the assessments under this section shall
4 be paid to the citrus, fruit and vegetable revolving TRUST fund.

5 C. The supervisor, pursuant to section 3-527.02, shall set the amount
6 of the charges under this section annually with the approval of the director,
7 but not in amounts greater than necessary to provide revenues to defray all
8 of the proper expenses of carrying out the provisions of this article and
9 article 4 of this chapter. The supervisor may establish assessments for each
10 commodity based on the time that is necessary to inspect the commodity.

11 D. Before the supervisor may set or the director may approve an
12 increase in the assessment, the supervisor shall provide thirty days' advance
13 notice of a public hearing and the amount of the proposed assessment to all
14 shippers who are licensed under sections 3-449 and 3-492 and to any other
15 interested party. The supervisor shall receive testimony at the hearing
16 regarding the proposed increase in the assessment. Title 41, chapter 6 does
17 not apply to setting or collecting assessments under this section.

18 E. The supervisor shall compute the amount of assessments within the
19 limits of this section and may bill the assessments twice monthly. Each
20 shipper shall pay the charges to the supervisor within sixty days after the
21 billing date.

22 F. A shipper who fails to pay the required assessment within sixty
23 days after the billing date is subject to a penalty of ten per cent of the
24 amount of the total assessment plus interest at a rate of two per cent per
25 month on the unpaid balance.

26 G. A shipper may request a hearing before the supervisor to protest
27 the amount of assessment, penalty or interest imposed. If requested, the
28 supervisor shall hold the hearing. After the hearing the supervisor shall
29 enter an order determining the amount of the fee, penalty and interest. The
30 shipper shall pay that amount within ten days after notice of the
31 supervisor's determination unless the decision is appealed to the director.
32 The shipper may appeal the decision of the supervisor to the director. If
33 the supervisor's decision is appealed, the director shall review the record
34 of the hearing and affirm, modify or reverse the supervisor's decision.

35 H. For the purposes of this section, in addition to the definition of
36 shipper contained in section 3-441, "shipper" shall also include shipper as
37 defined in section 3-481.

38 Sec. 16. Section 3-449, Arizona Revised Statutes, is amended to read:
39 3-449. Annual licensing; fee; application

40 A. No person shall transact business as a citrus fruit dealer, packer
41 or shipper without first obtaining a license as provided in this article.
42 The license expires on August 1 of each year and is renewable annually. The
43 license fee shall be determined according to the annual gross sales based on
44 the dealer's or shipper's previous fiscal year as follows:

1 1. If the annual gross sales are five hundred thousand dollars or
2 more, the annual fee is four hundred fifty dollars.

3 2. If the annual gross sales are between two hundred thousand dollars
4 and five hundred thousand dollars, the annual fee is three hundred dollars.

5 3. If the annual gross sales are two hundred thousand dollars or less,
6 the annual fee is one hundred fifty dollars.

7 4. If the person was not in business the previous fiscal year, the
8 annual fee is one hundred fifty dollars.

9 B. The application for a packer license shall be filed with the
10 supervisor and be accompanied by an annual license fee of one hundred fifty
11 dollars.

12 C. If a person engages in business in more than one category as a
13 dealer, shipper or packer, the license designation shall be based on the
14 category in which most of the licensee's business is conducted.

15 D. The license fees collected by the supervisor shall be paid into the
16 citrus, fruit and vegetable revolving TRUST fund.

17 E. The application for a dealer, shipper or packer license shall
18 contain the following information:

19 1. The full name of the person applying for the license.

20 2. Whether the applicant is an individual, partnership, firm,
21 corporation, association, trust or cooperative association and the full name
22 of each member of the partnership or firm, the full name of each officer and
23 director of the association or corporation or the full name of each trustee.

24 3. The principal business address of the applicant in this state and
25 elsewhere and the address where the applicant conducts the described
26 business.

27 4. The name of the statutory agent in this state for service of legal
28 notice.

29 5. The category of license for which the applicant is applying.

30 6. A statement of the facts, signed under penalty of perjury,
31 entitling the applicant to a license under the applicable category and
32 stating whether the applicant has ever had any license to handle citrus,
33 fruit or vegetables in any state denied, suspended or revoked.

34 7. If the applicant acts as a commission merchant, a schedule of
35 commissions and charges for services, which may not be altered during the
36 term of the license except by written agreement between the parties involved.

37 F. The supervisor shall issue to the applicant a license to conduct
38 the business described for a period of one year unless it is revoked for
39 cause.

40 G. An applicant who tenders a renewal application for a license that
41 is received by the supervisor after August 15 shall pay a penalty of
42 twenty-five dollars. An applicant who tenders a renewal application for a
43 license that is received after September 1 shall pay a penalty of fifty
44 dollars. All penalties shall be deposited in the citrus, fruit and vegetable
45 revolving TRUST fund.

1 Sec. 17. Section 3-449.04, Arizona Revised Statutes, is amended to
2 read:

3 3-449.04. Appeals from inspections

4 A. If the owner, or the owner's agent, of all or part of a lot
5 disagrees with the decision of an inspector as to whether the lot or part of
6 the lot conforms to the standards adopted pursuant to this article, the owner
7 or agent may request that the supervisor or the supervisor's designee, other
8 than the inspector, review the testing procedures used by the inspector.
9 When reviewing the procedures, the supervisor or designee shall consider the
10 accuracy of the test instruments, the inspection methods, including the
11 sample size, the defect determination, the percentage of the defective
12 product and any other relevant information.

13 B. The supervisor or designee shall conduct the review within eight
14 hours of the request.

15 C. If the supervisor or designee determines that the inspector used
16 improper testing procedures, a new inspection shall be ordered of the lot or
17 part of the lot within four hours after completing the review in order to
18 determine compliance. The determination after the reinspection is final.

19 D. The person who requests the review shall pay a fee of twenty-five
20 dollars for the review. All monies collected under this subsection shall be
21 deposited in the citrus, fruit and vegetable ~~revolving~~ TRUST fund.

22 Sec. 18. Section 3-450, Arizona Revised Statutes, is amended to read:

23 3-450. Exemption from citrus fruit standardization; definitions

24 A. The supervisor shall exempt any citrus fruit commodity from all
25 rules established pursuant to section 3-445, subsection B, paragraphs 1
26 through 5 and shall exempt the collection of assessments for the commodity
27 subject to this article if the exemption is supported by at least fifty-one
28 per cent of the producers who produce at least fifty-one per cent of the
29 total quantity of that particular citrus fruit commodity that was marketed
30 during the preceding year and all of the other requirements of this section
31 have been met. For the purposes of this subsection, "quantity" means the
32 percentage of ownership interest a producer has in the marketed cartons.

33 B. To initiate the exemption process, a producer or shipper shall
34 present to the supervisor a petition signed by producers, under penalty of
35 perjury, who represent at least one-third of the cartons of the commodity
36 produced in the previous year. The petition shall be submitted on a form
37 prescribed and furnished by the supervisor. On receiving the petition, the
38 supervisor shall negotiate with the petitioner a fee for the estimated costs
39 of the notification, balloting and certification process under this section.
40 The petitioner is responsible for all costs associated with this process and
41 shall pay to the supervisor at least one-half of the fee before proceeding
42 with the petition process.

43 C. Within ten days after receiving the fee payment under subsection B
44 of this section, the supervisor shall send a notice and a ballot to each
45 shipper of the commodity by certified mail, return receipt requested. The

1 notice shall include a statement that the shipper shall notify each producer
2 the shipper represents of the exemption petition and of the producer's right
3 to support or oppose the exemption.

4 D. Within sixty days after receiving the notice from the supervisor,
5 each shipper shall return the ballot to the supervisor, filed under penalty
6 of perjury, containing the following information:

7 1. The name of each producer of the particular commodity that the
8 shipper deals with.

9 2. The total number of cartons produced in the preceding year by each
10 producer based on the percentage of ownership.

11 3. The vote of each producer based on the percentage of ownership of
12 cartons.

13 E. If a shipper fails to return the ballot as prescribed by subsection
14 D of this section, the supervisor may audit the shipper to ensure compliance
15 with section 3-449.03.

16 F. Within ninety days after receiving the ballots issued under this
17 section, the supervisor shall review the ballots and determine the results.
18 On payment of the full amount of the costs of the petition process as
19 determined under subsection B of this section, the supervisor shall certify
20 and issue the results of the ballots. If the supervisor certifies that the
21 ballots meet the requirements of this section, the supervisor shall provide
22 public notice of the date the exemption becomes effective, which shall be
23 within ninety days after the supervisor certifies and issues the results of
24 the balloting.

25 G. Information provided by shippers to the supervisor for purposes of
26 this section is confidential and is not a public record, and the supervisor
27 shall not disclose the information for any purpose except for the purpose of
28 an appeal under subsection H of this section.

29 H. The petitioner and any producer or shipper of the commodity for
30 which exemption is being sought has the right to appeal to the director on
31 any of the following issues:

32 1. The validity of the petition submitted under subsection B of this
33 section.

34 2. The notice requirements of this section.

35 3. The sufficiency of the submitted ballots.

36 4. The costs of the petition process.

37 I. All monies collected by the supervisor pursuant to this section
38 shall be deposited in the citrus, fruit and vegetable revolving TRUST fund
39 established by section 3-447.

40 J. The procedures prescribed by this section also apply for producers
41 and shippers to rescind an exemption that was previously granted under this
42 section. The rescission becomes effective on July 1 of a year as determined
43 by the supervisor. No rescission may take effect until the exemption has
44 been in effect for at least two years.

1 K. For the purposes of this section:
2 1. "Producer" means a single legal entity that has a percentage
3 ownership interest in the marketed commodity.
4 2. "Year" means July 1 through June 30.
5 Sec. 19. Section 3-466, Arizona Revised Statutes, is amended to read:
6 3-466. Civil penalty; hearing
7 A. A person is subject to a civil penalty of not more than five
8 hundred dollars, if the person does either of the following:
9 1. Acts as a dealer, shipper or packer without a valid license.
10 2. Knowingly falsifies or causes to be falsified information in a
11 record intended to show proof of ownership.
12 B. A person shall be subject to a civil penalty of not more than three
13 hundred dollars, if the person does any of the following:
14 1. Makes a written or oral false, deceptive or misleading
15 representation or assertion concerning the quality, size, maturity or
16 condition of citrus fruit.
17 2. Alters, removes or destroys a warning notice from a lot or part of
18 a lot to which it was affixed except on written authorization of an
19 inspector, the supervisor or the director or by court order.
20 3. Alters a notice of noncompliance, notice of compliance or notice of
21 disposal that is issued by an inspector.
22 4. Refuses to submit any container or lot of citrus fruit governed
23 pursuant to this article to an inspection of a representative sample or to
24 refuse to stop and permit inspection of a representative sample of any
25 commercial vehicle containing citrus fruit governed pursuant to this article.
26 C. A commission merchant is subject to a civil penalty of not more
27 than five hundred dollars, if the commission merchant does any of the
28 following:
29 1. Knowingly makes a false or misleading statement as to the condition
30 of any citrus fruit.
31 2. Makes a fraudulent charge or return for handling or selling citrus
32 fruit or for rendering any service in connection with handling or selling
33 citrus fruit.
34 3. Reconsigns a consignment to receive, collect or charge more than
35 one commission without the consent of the consignor.
36 4. Sells citrus fruit at less than market price to a person with whom
37 the consignment merchant has a direct or indirect financial connection.
38 5. Makes a sale and directly or indirectly receives a portion of the
39 purchase price other than the commission specified in the contract.
40 D. A person who is charged with violating this article or rules
41 adopted pursuant to this article may request a hearing pursuant to title 41,
42 chapter 6, article 10.
43 E. Civil penalties collected pursuant to this section shall be
44 deposited in the citrus, fruit and vegetable revolving TRUST fund.

1 Sec. 20. Section 3-468.04, Arizona Revised Statutes, is amended to
2 read:

3 3-468.04. Fees; collection; budget

4 A. On or before July 1 of each calendar year, the council shall assess
5 a fee of not more than one and one-half cents per standard carton of citrus
6 produced. For the purposes of this subsection, "standard carton" means a
7 container or package prescribed for each kind of citrus fruit pursuant to
8 article 2 of this chapter and rules adopted under that article.

9 B. Each grower-shipper, shipper and handler shall keep a complete and
10 accurate record of all citrus handled by such entities and the producer.
11 These records shall contain such information as required to be kept for the
12 citrus, fruit and vegetable revolving TRUST fund pursuant to articles 2 and 4
13 of this chapter and rules adopted pursuant to those articles.

14 C. Assessments shall be collected from the grower-shipper, shipper or
15 handler first marketing the citrus being assessed. The grower-shipper,
16 shipper or handler is a trustee of the monies until they are paid to the
17 council pursuant to subsection B and according to procedures established
18 pursuant to articles 2 and 4 of this chapter and rules adopted pursuant to
19 those articles. A citrus producer is responsible for paying the fee unless
20 the fee is withheld for payment by the grower-shipper, shipper or handler
21 first marketing the citrus.

22 D. Before establishing the annual fee, the council shall establish a
23 budget. The budget is effective on approval of the council.

24 E. Title 41, chapter 6 does not apply to setting and collecting the
25 fee under this section, but the council shall provide thirty days' advance
26 notice of the meeting at which any fee will be increased and the amount of
27 the proposed fee. The council shall receive public testimony at the meeting
28 regarding the fee.

29 Sec. 21. Section 3-468.06, Arizona Revised Statutes, is amended to
30 read:

31 3-468.06. Arizona citrus trust fund

32 A. THE ARIZONA CITRUS TRUST FUND IS ESTABLISHED FOR THE EXCLUSIVE
33 PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL PROGRAM
34 ESTABLISHED BY THIS ARTICLE. Monies collected pursuant to this article shall
35 be deposited in the ~~council's accounts that are administered by the~~
36 ~~department as the council's agent and~~ TRUST FUND.

37 B. THE COUNCIL SHALL ADMINISTER THE TRUST FUND AS TRUSTEE. THE STATE
38 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES
39 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS
40 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER
41 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM
42 THE COUNCIL, THE STATE TREASURER SHALL INVEST AND DIVEST ANY TRUST FUND
43 MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS 35-313 AND
44 35-314.03, AND MONIES EARNED FROM THE INVESTMENT SHALL BE CREDITED TO THE
45 TRUST FUND.

1 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM
2 ESTABLISHED BY THIS ARTICLE. MONIES IN THE TRUST FUND SHALL BE disbursed as
3 approved by the council EXCLUSIVELY for the purposes prescribed in this
4 article.

5 D. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE
6 AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL FUND.

7 ~~B.~~ E. If the council is terminated, any monies in the ~~council's~~
8 ~~accounts~~ TRUST FUND shall be expended to meet existing legal obligations of
9 the council. The council shall expend any remaining monies on any program
10 consistent with this article.

11 ~~C. On notice from the council, the state treasurer shall invest and~~
12 ~~divest monies in the account as provided by section 35-313, and monies earned~~
13 ~~from investment shall be credited to the account.~~

14 Sec. 22. Section 3-484, Arizona Revised Statutes, is amended to read:

15 3-484. Deputies and clerks; compensation; expenses

16 A. The compensation of the supervisor shall be as determined pursuant
17 to section 38-611. The supervisor shall, with the approval of the director,
18 SHALL fix the duties of each deputy and clerk. Compensation of the deputies
19 and clerks shall be as determined pursuant to section 38-611.

20 B. The compensation of the supervisor and all expenses properly
21 incurred in the enforcement of this article, including but not limited to
22 compensation, travel and subsistence expenses and office expenses, shall be
23 paid from the citrus, fruit and vegetable ~~revolving~~ TRUST fund provided for
24 in section 3-447.

25 Sec. 23. Section 3-489, Arizona Revised Statutes, is amended to read:

26 3-489. Requests for inspection by unlicensed or unregistered
27 persons; fees

28 A. A person who is not licensed under article 2 of this chapter or
29 this article and who requests inspection of citrus, fruit, vegetables or nuts
30 shall pay a fee to the citrus, fruit and vegetable ~~revolving~~ TRUST fund. The
31 supervisor shall set the amount of the fee by rule and shall assess and
32 collect the fee for inspection service performed by the supervisor or the
33 supervisor's employees. The fee shall be an amount reasonably necessary to
34 cover the costs of inspection and processing of the necessary documentation.
35 Before setting the fee, the supervisor shall consult with the citrus, fruit
36 and vegetable advisory council.

37 B. The fee is due and payable on completing the inspection. If the
38 fee is not paid, the supervisor may refuse to perform any further inspection
39 services.

40 C. The supervisor may prescribe a different scale of fees for
41 different locations and different commodities based on the amount of time
42 necessary to inspect the commodities. The supervisor may assess a charge for
43 traveling expenses pursuant to title 38, chapter 4, article 2.

44 D. This section does not apply to any inspection services performed
45 pursuant to article 1 of this chapter.

1 Sec. 24. Section 3-491, Arizona Revised Statutes, is amended to read:
2 3-491. Exemption from fruit or vegetable standardization:
3 definitions

4 A. The supervisor shall exempt any fruit or vegetable commodity from
5 all rules established pursuant to section 3-487, subsection B, paragraphs 1
6 through 5 and shall exempt the collection of assessments for the commodity
7 subject to this article if the exemption is supported by at least fifty-one
8 per cent of the producers who produce at least fifty-one per cent of the
9 total quantity of that particular fruit or vegetable commodity that was
10 marketed during the preceding year and all of the other requirements of this
11 section have been met. For the purposes of this subsection, "quantity" means
12 the percentage of ownership interest a producer has in the marketed cartons.

13 B. To initiate the exemption process, a producer or shipper shall
14 present to the supervisor a petition signed by producers, under penalty of
15 perjury, who represent at least one-third of the cartons of the commodity
16 produced in the previous year. The petition shall be submitted on a form
17 prescribed and furnished by the supervisor. On receiving the petition, the
18 supervisor shall negotiate with the petitioner a fee for the estimated costs
19 of the notification, balloting and certification process under this section.
20 The petitioner is responsible for all costs associated with this process and
21 shall pay to the supervisor at least one-half of the fee before proceeding
22 with the petition process.

23 C. Within ten days after receiving the fee payment under subsection B
24 of this section, the supervisor shall send a notice and a ballot to each
25 shipper of the commodity by certified mail, return receipt requested. The
26 notice shall include a statement that the shipper shall notify each producer
27 the shipper represents of the exemption petition and of the producer's right
28 to support or oppose the exemption.

29 D. Within sixty days after receiving the notice from the supervisor,
30 each shipper shall return the ballot to the supervisor, filed under penalty
31 of perjury, containing the following information:

32 1. The name of each producer of the particular commodity that the
33 shipper deals with.

34 2. The total number of cartons produced in the preceding year by each
35 producer based on the percentage of ownership.

36 3. The vote of each producer based on the percentage of ownership of
37 cartons.

38 E. If a shipper fails to return the ballot as prescribed by subsection
39 D of this section, the supervisor may audit the shipper to ensure compliance
40 with this article.

41 F. Within ninety days after receiving the ballots issued under this
42 section, the supervisor shall review the ballots and determine the results.
43 On payment of the full amount of the costs of the petition process as
44 determined under subsection B of this section, the supervisor shall certify
45 and issue the results of the ballots. If the supervisor certifies that the

1 ballots meet the requirements of this section, the supervisor shall provide
2 public notice of the date the exemption becomes effective, which shall be
3 within ninety days after the supervisor certifies and issues the results of
4 the balloting.

5 G. Information provided by shippers to the supervisor for purposes of
6 this section is confidential and is not a public record, and the supervisor
7 shall not disclose the information for any purpose except for the purpose of
8 an appeal under subsection H of this section.

9 H. The petitioner and any producer or shipper of the commodity for
10 which exemption is being sought has the right to appeal to the director on
11 any of the following issues:

12 1. The validity of the petition submitted under subsection B of this
13 section.

14 2. The notice requirements of this section.

15 3. The sufficiency of the submitted ballots.

16 4. The costs of the petition process.

17 I. All monies collected by the supervisor pursuant to this section
18 shall be deposited in the citrus, fruit and vegetable ~~revolving~~ TRUST fund
19 established by section 3-447.

20 J. The procedures prescribed by this section also apply for producers
21 and shippers to rescind an exemption that was previously granted under this
22 section. The rescission becomes effective on July 1 of a year as determined
23 by the supervisor. No rescission may take effect until the exemption has
24 been in effect for at least two years.

25 K. For the purposes of this section:

26 1. "Producer" means a single legal entity that has a percentage
27 ownership interest in the marketed commodity.

28 2. "Year" means July 1 through June 30.

29 Sec. 25. Section 3-492, Arizona Revised Statutes, is amended to read:

30 3-492. Licensing dealers, shippers and packers: application:
31 fee

32 A. No person shall act as a dealer or shipper without first obtaining
33 a license as provided in this article. Application for the license shall be
34 filed with the supervisor and accompanied by a license fee determined
35 according to the annual gross sales based on the dealer's or shipper's
36 previous fiscal year as follows:

37 1. If the annual gross sales are five hundred thousand dollars or
38 more, the annual fee is five hundred dollars.

39 2. If the annual gross sales are between two hundred thousand dollars
40 and five hundred thousand dollars, the annual fee is three hundred fifty
41 dollars.

42 3. If the annual gross sales are two hundred thousand dollars or less,
43 the annual fee is two hundred dollars.

44 4. If the person was not in business the previous fiscal year, the
45 annual fee is two hundred dollars.

1 B. A person may not act as a packer without first obtaining a license
2 as provided in this article. The application for a packer license shall be
3 filed with the supervisor and accompanied by an annual license fee of two
4 hundred dollars.

5 C. If a person engages in business in more than one category as a
6 dealer, shipper or packer, the license designation shall be based on the
7 category in which most of the licensee's business is conducted.

8 D. The monies received as license fees under this section shall be
9 paid into the citrus, fruit and vegetable revolving TRUST fund. The license
10 shall expire on September 1 of each year and is renewable annually.

11 E. The application for a dealer, shipper or packer license shall
12 contain the following information:

13 1. The full name of the person applying for the license.

14 2. Whether the applicant is an individual, partnership, firm,
15 corporation, association, trust or cooperative association and the full name
16 of each member of the partnership or firm, the full name of each officer and
17 director of the association or corporation or the full name of each trustee.

18 3. The principal business address of the applicant in this state and
19 elsewhere and the address where the applicant conducts the described
20 business.

21 4. The name of the statutory agent in this state for service of legal
22 notice.

23 5. The category of license for which the applicant is applying.

24 6. A statement of the facts, signed under penalty of perjury,
25 entitling the applicant to a license under the applicable category and
26 stating whether the applicant has ever had any license to handle citrus,
27 fruit or vegetables in any state denied, suspended or revoked.

28 7. If the applicant acts as a commission merchant, a schedule of
29 commissions and charges for services, which may not be altered during the
30 term of the license except by written agreement between the parties involved.

31 F. The supervisor shall issue to the applicant a license to conduct
32 the business described for a period of one year unless it is revoked for
33 cause.

34 G. An applicant who tenders a renewal application for a license that
35 is received by the supervisor after September 15 shall pay a penalty of
36 twenty-five dollars. An applicant who tenders a renewal application for a
37 license that is received after October 1 shall pay a penalty of fifty
38 dollars. All penalties shall be deposited in the citrus, fruit and vegetable
39 revolving TRUST fund.

40 Sec. 26. Section 3-498, Arizona Revised Statutes, is amended to read:
41 3-498. Appeals from inspection

42 A. If the owner, or the owner's agent, of all or part of a lot
43 disagrees with the decision of an inspector as to whether the lot or part of
44 the lot conforms to the standards and other rules adopted pursuant to this
45 article, the owner or agent may request that the supervisor or the

1 supervisor's designee, other than the inspector, review the testing
2 procedures used by the inspector. When reviewing the procedures, the
3 supervisor or designee shall consider the accuracy of the test instruments,
4 the inspection methods, including the sample size, the defect determination,
5 the percentage of the defective product and any other relevant information.

6 B. The supervisor or designee shall conduct the review within eight
7 hours of the request. If the supervisor or designee determines that the
8 inspector used improper testing procedures, a new inspection shall be ordered
9 of the lot or part of the lot within four hours after completing the review
10 in order to determine compliance. The determination after the reinspection
11 is final.

12 C. The person who requests the review shall pay a fee of twenty-five
13 dollars for the review. All monies collected under this subsection shall be
14 deposited in the citrus, fruit and vegetable revolving TRUST fund.

15 Sec. 27. Section 3-521, Arizona Revised Statutes, is amended to read:

16 3-521. Civil penalties; hearing

17 A. A person is subject to a civil penalty of not more than five
18 hundred dollars, if the person does either of the following:

- 19 1. Acts as a dealer, shipper or packer without a valid license.
20 2. Knowingly falsifies or causes to be falsified information in a
21 record intended to show proof of ownership.

22 B. A person shall be subject to a civil penalty of not more than three
23 hundred dollars, if the person does any of the following:

- 24 1. Makes a written or oral false, deceptive or misleading
25 representation or assertion concerning the quality, size, maturity or
26 condition of fruit or vegetables.
27 2. Alters, removes or destroys a warning notice from a lot or part of
28 a lot to which it was affixed except on written authorization of an
29 inspector, the supervisor or the director or by court order.

30 3. Alters a notice of noncompliance, notice of compliance or notice of
31 disposal that is issued by an inspector.

32 4. Refuses to submit any container or lot of fruit or vegetables
33 governed by this article to an inspection of a representative sample or
34 refuses to stop and permit inspection of a representative sample of any
35 commercial vehicle containing fruit and vegetables governed by this article.

36 C. A commission merchant is subject to a civil penalty of not more
37 than five hundred dollars, if the commission merchant does any of the
38 following:

- 39 1. Knowingly makes a false or misleading statement as to the condition
40 of any fruit or vegetable.
41 2. Makes a fraudulent charge or return for handling or selling a fruit
42 or vegetable or for rendering any service in connection with handling or
43 selling a fruit or vegetable.
44 3. Reconsigns a consignment to receive, collect or charge more than
45 one commission without the consent of the consignor.

1 4. Sells a fruit or vegetable at less than market price to a person
2 with whom the consignment merchant has a direct or indirect financial
3 connection.

4 5. Makes a sale and directly or indirectly receives a portion of the
5 purchase price other than the commission specified in the contract.

6 D. A person who is charged with violating this article or rules
7 adopted pursuant to this article may request a hearing before an
8 administrative law judge pursuant to title 41, chapter 6, article 10. The
9 decision of the administrative law judge is subject to review by the director
10 as provided by title 41, chapter 6, article 10.

11 E. Civil penalties collected pursuant to this section shall be
12 deposited in the citrus, fruit and vegetable revolving TRUST fund.

13 Sec. 28. Section 3-526.04, Arizona Revised Statutes, is amended to
14 read:

15 3-526.04. Fees; collection; budget

16 A. On or before July 1 of each calendar year, the council shall assess
17 a fee of not more than one-half cent per carton of packed iceberg lettuce or
18 bulk bins assessed according to forty-five pounds of equivalent weight of
19 iceberg lettuce prepared for market or an equivalent basis.

20 B. Each grower-shipper, shipper and handler shall keep a complete and
21 accurate record of all iceberg lettuce handled by such entities and the
22 producer. These records shall contain such information as required to be
23 kept for the citrus, fruit and vegetable revolving TRUST fund pursuant to
24 articles 2 and 4 of this chapter and rules adopted pursuant to those
25 articles.

26 C. Assessments shall be collected from the grower-shipper, shipper or
27 handler first marketing the iceberg lettuce being assessed. The
28 grower-shipper, shipper or handler is a trustee of the monies until they are
29 paid to the council at the time and in the manner prescribed by the council.
30 An iceberg lettuce producer is responsible for paying the fee unless the fee
31 is withheld for payment by the grower-shipper, shipper or handler first
32 marketing the iceberg lettuce.

33 D. Before establishing the annual fee, the council shall establish a
34 budget. The budget is effective on approval of the council.

35 E. Title 41, chapter 6 does not apply to setting and collecting the
36 fee under this section, but the council shall provide thirty days' advance
37 notice of the meeting at which any fee will be increased and the amount of
38 the proposed fee. The council shall receive public testimony at the meeting
39 regarding the fee.

40 Sec. 29. Section 3-526.06, Arizona Revised Statutes, is amended to
41 read:

42 3-526.06. Iceberg lettuce trust fund

43 A. THE ICEBERG LETTUCE TRUST FUND IS ESTABLISHED FOR THE EXCLUSIVE
44 PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL PROGRAM
45 ESTABLISHED BY THIS ARTICLE. Monies collected pursuant to section 3-526.04

1 shall be deposited in the ~~council's accounts that are administered by the~~
2 ~~department as the council's agent and~~ TRUST FUND.

3 B. THE COUNCIL SHALL ADMINISTER THE TRUST FUND AS TRUSTEE. THE STATE
4 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES
5 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS
6 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER
7 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM
8 THE COUNCIL, THE STATE TREASURER SHALL INVEST AND DIVEST ANY TRUST FUND
9 MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS 35-313 AND
10 35-314.03, AND MONIES EARNED FROM THE INVESTMENT SHALL BE CREDITED TO THE
11 TRUST FUND.

12 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM
13 ESTABLISHED BY THIS ARTICLE. MONIES IN THE TRUST FUND SHALL BE disbursed as
14 approved by the council EXCLUSIVELY for the purposes prescribed in this
15 article.

16 D. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE
17 AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL FUND.

18 ~~B.~~ E. If the council is terminated, any monies in the ~~council's~~
19 ~~accounts~~ TRUST FUND shall be expended to meet existing legal obligations of
20 the council. The council shall expend any remaining monies on any program
21 consistent with this article.

22 ~~C. The monies in the account may be invested pursuant to section~~
23 ~~35-313. Interest earned on these monies shall be credited to the account.~~

24 Sec. 30. Section 3-584, Arizona Revised Statutes, is amended to read:

25 3-584. Powers and duties of the council

26 A. The council shall:

27 1. Meet at least once during each calendar quarter and more frequently
28 on the call of the chairman, vice-chairman or any three members of the
29 council.

30 2. Annually elect a chairman from among its members.

31 3. Elect a secretary and a treasurer from among its members.

32 4. Establish an executive committee, consisting of the chairman,
33 secretary and treasurer. The executive committee shall act pursuant to
34 direction received from the full council, or if the situation arises, the
35 executive committee shall act and then bring the subject and its action
36 before the full council at the next regular meeting of the council for review
37 and ratification.

38 5. Establish fees to be assessed within the limits prescribed in
39 section 3-587 TO BE HELD IN TRUST IN, AND SUBJECT TO THE TERMS AND CONDITIONS
40 PRESCRIBED FOR, THE ARIZONA GRAIN RESEARCH TRUST FUND ESTABLISHED BY SECTION
41 3-590.

42 B. Programs and projects authorized under this article may include:

43 1. Cooperation in state, regional, national or international
44 activities with public or private organizations or individuals to assist in

1 developing and expanding markets and reducing the cost of marketing grain and
2 grain products.

3 2. Participation in research projects and programs to assist in
4 reducing fresh water consumption, developing new grain varieties, improved
5 production and handling methods, research and design of new or improved
6 harvesting and handling equipment.

7 3. Any program or project that the council determines appropriate to
8 provide education, publicity or other assistance to facilitate further
9 development of the Arizona grain industry.

10 C. The council may:

11 1. Adopt administrative rules necessary to promptly and effectively
12 administer this article.

13 2. Appoint subordinate officers and employees of the council,
14 prescribe their duties and fix their compensation.

15 3. Accept donations of monies, property, services or other assistance
16 from public or private sources for the purpose of furthering the objectives
17 of this article. ALL DONATIONS OF MONIES SHALL BE HELD IN TRUST IN, AND
18 SUBJECT TO THE TERMS AND CONDITIONS PRESCRIBED FOR, THE ARIZONA GRAIN
19 RESEARCH TRUST FUND ESTABLISHED BY SECTION 3-590.

20 4. Investigate and prosecute in the name of this state any action or
21 suit to enforce the collection or ensure payment of the fees authorized and
22 sue and be sued in the name of the council.

23 5. Make grants to research agencies for financing appropriate studies,
24 research projects and programs to assist in reducing fresh water consumption,
25 developing new grain varieties, improved production and handling methods and
26 research and design of new or improved harvesting and handling equipment.

27 Sec. 31. Section 3-590, Arizona Revised Statutes, is amended to read:
28 3-590. Arizona grain research trust fund

29 A. The Arizona grain research TRUST fund is established for the
30 EXCLUSIVE purpose of ~~administering~~ IMPLEMENTING, CONTINUING AND SUPPORTING
31 THE AGRICULTURAL PROGRAM ESTABLISHED BY this article. The council shall
32 administer the TRUST fund AS TRUSTEE. The TRUST fund consists of fees
33 collected pursuant to this article.

34 B. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM
35 ESTABLISHED BY THIS ARTICLE. THE TRUST FUND SHALL BE USED EXCLUSIVELY FOR
36 THE PURPOSES OF THIS ARTICLE ON THE ORDER OF THE COUNCIL.

37 C. THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD
38 IN TRUST MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE
39 TRUST MONIES AS DEFINED BY SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED
40 WITH ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES.
41 On notice from the council, the state treasurer shall invest and divest
42 ~~monies in the~~ TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided
43 by ~~section~~ SECTIONS 35-313 AND 35-314.03, and monies earned from investment
44 shall be credited to the TRUST fund.

1 D. Monies in the TRUST fund are exempt from the provisions of section
2 35-190 relating to lapsing of appropriations. SURPLUS MONIES, INCLUDING ANY
3 UNEXPENDED AND UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT
4 REVERT TO THE STATE GENERAL FUND.

5 B- E. If the council is terminated, any monies remaining in the TRUST
6 fund after terminating this article shall be expended to meet existing legal
7 obligations of the council. The council shall expend any surplus remaining
8 for market research or other lawful purposes under this article.

9 Sec. 32. Section 3-592, Arizona Revised Statutes, is amended to read:
10 3-592. Refund of fees

11 A producer may by the use of forms provided by the council, and on
12 presentation of such proof as the council may require, have the fee refunded.
13 A request for refund must be received in the office of the council within
14 sixty days following the payment of the fee BY THE FIRST BUYER OR THE FIRST
15 PURCHASER. The council shall DIRECT THE STATE TREASURER, AS TRUSTEE, TO make
16 refunds within thirty days of the request for refund if the fee sought to be
17 refunded has been received. The council shall adopt such rules as are
18 necessary to further ensure that the fees are refunded promptly.

19 Sec. 33. Section 3-710, Arizona Revised Statutes, is amended to read:
20 3-710. Powers and duties; preemption

21 A. The department may acquire and distribute to persons interested
22 useful information relative to the preparation for market, handling,
23 purchasing, transportation, storage and marketing of eggs and egg products,
24 including the demonstration of how to classify eggs and egg products in
25 accordance with the uniform standards and grades prescribed pursuant to this
26 chapter.

27 B. The department may issue in booklet form copies of this article
28 containing complete descriptive terms as to shell, aircell, white, yolk and
29 germ, and may make changes in definitions of terms and grades as they are
30 made and promulgated by the United States department of agriculture.

31 C. Upon ON request of the United States government, and others, the
32 director may negotiate and sign cooperative agreements to do inspection and
33 grading services and charge and receive payment for the reasonable cost
34 thereof. The ~~funds~~ MONIES received for such services shall be
35 deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the state egg
36 inspection TRUST fund.

37 D. When the production of papers, books and records relating to any
38 matter under investigation is deemed advisable, the director may apply to the
39 superior court in any county for an order requiring the production of the
40 papers, books and records. If the court is satisfied that the papers, books
41 and records are pertinent to the matter under investigation, their production
42 shall be ordered.

43 E. A complaint filed with the department charging a noncompliance with
44 or violation of any provision of this article shall be in writing and signed
45 by the complainant.

1 F. The supervisor and inspectors shall enforce the provisions of this
2 article in conformity with rules adopted by the director. The refusal of an
3 officer authorized under this article to carry out the orders and directions
4 of the director in the enforcement of this article or prosecutions thereunder
5 is neglect of duty. The director shall make and enforce such rules as he
6 deems necessary to carry out the provisions of this article.

7 G. An inspector may enter and inspect any place or conveyance within
8 the state over which he has supervision where eggs are produced, candled,
9 incubated, stored, packed, delivered for shipment, loaded, shipped,
10 transported or sold, and may inspect all invoices, eggs and the cases and
11 containers thereof and equipment found in the places or conveyances, and may
12 take for inspection representative samples of the invoices, eggs and cases or
13 containers for the purpose of determining whether or not any provision of
14 this article has been violated.

15 H. An inspector may, while enforcing the provisions of this article,
16 MAY seize and hold as evidence an advertisement, sign, placard, invoice, case
17 or container of eggs or egg products or all or any part of any pack, load,
18 lot consignment or shipment of eggs or egg products packed, stored, delivered
19 for shipment, loaded, shipped, transported or sold in violation of any
20 provisions of this article.

21 I. The department may prescribe minimum standards for egg processing
22 plants and sanitary standards for the processing of shell eggs. The
23 department shall establish these standards by rule. Chemicals used in egg
24 processing plants, sanitizers used in egg processing, egg soaps, egg oil and
25 other substances used in processing shell eggs are subject to the approval of
26 the director.

27 J. The director shall adopt rules for poultry husbandry and the
28 production of eggs sold in this state. This subsection does not apply to egg
29 producers operating or controlling the operation of one or more egg ranches
30 each having fewer than twenty thousand egg-laying hens producing eggs.

31 K. Consistency of poultry husbandry practices for the production of
32 eggs is a statewide matter. The regulation of poultry husbandry practices
33 related to the production of eggs is not subject to further regulation by a
34 county, city, town or other political subdivision of this state.

35 Sec. 34. Section 3-716, Arizona Revised Statutes, is amended to read:

36 3-716. Inspection fees; report and payment by dealers;

37 exception; penalty; collection

38 A. An inspection fee of not more than three mills per dozen on shell
39 eggs and three mills per pound on egg products shall be paid by a dealer,
40 producer-dealer, manufacturer or producer on all eggs and egg products
41 regardless of origin, sold to a retailer, hotel, hospital, bakery,
42 restaurant, other eating place or consumer for human consumption within this
43 state. Inspection fees on eggs used for the purpose of breaking, freezing or
44 drying shall be paid by the manufacturer, dealer or distributor if sold or

1 offered for sale to retailers or consumers for human consumption within this
2 state.

3 B. If it appears that the revenue derived from inspection fees is more
4 than is required for the administration of this article, the director may
5 decrease the inspection fee and at any time thereafter may increase or
6 decrease the inspection fee, but at no time shall it exceed an amount of
7 three mills per dozen on shell eggs or three mills per pound on egg products.

8 C. All manufacturers, dealers, producer-dealers and producers shall
9 file:

10 1. A quarterly report with the department showing the name and address
11 of the manufacturer, dealer, producer-dealer or producer.

12 2. The number of dozen of eggs or pounds of egg products sold or
13 delivered for the period to retail stores, hotels, hospitals, bakeries,
14 restaurants, other eating places or consumers for human consumption within
15 this state.

16 D. The report shall be accompanied by check or money order covering
17 the inspection fee total of a value equal to the inspection fee in force at
18 that time on all eggs or egg products shown on such report within thirty days
19 following the close of quarterly report periods.

20 E. The records shall be retained for a period of one year and shall be
21 open at all times to the inspection of the department.

22 F. Notwithstanding the requirements of this section, twenty-five cases
23 per year of nest run eggs as provided in section 3-715 may be sold by any
24 person to retailers or consumers without being subject to the report and
25 inspection fee as provided by this section.

26 G. In addition to the inspection fees prescribed by this section, a
27 penalty of ten per cent shall be added for the delinquent filing of any
28 report or the delinquent payment of any inspection fee, and if the report and
29 payment are not made within ten days after notification of delinquency, the
30 penalty shall be twenty-five per cent of the inspection fee. Persons filing
31 a false report shall be penalized fifty per cent of the amount due for
32 inspection fees. The penalties prescribed by this section shall be
33 deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the state egg
34 inspection TRUST fund.

35 H. Such inspection fees and penalties shall be collected by civil
36 action filed by the county attorney.

37 Sec. 35. Section 3-717, Arizona Revised Statutes, is amended to read:
38 3-717. State egg inspection trust fund

39 A. All fees provided by this article shall be paid to the department
40 ~~which~~ THAT shall issue a receipt for such fees. ~~It shall report to the~~
41 ~~department of administration the total amount received from all sources and~~
42 ~~THE DEPARTMENT shall deposit, pursuant to sections 35-146 and 35-147, the~~
43 ~~FULL~~ amount in a special fund known as the state egg inspection TRUST fund.
44 THE TRUST FUND IS ESTABLISHED FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING,

1 CONTINUING AND SUPPORTING THE AGRICULTURAL PROGRAM ESTABLISHED BY THIS
2 ARTICLE.

3 B. The director shall administer the TRUST fund AS TRUSTEE. THE STATE
4 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES
5 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS
6 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER
7 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from
8 the director, the state treasurer shall invest and divest monies in the ANY
9 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY pursuant to section
10 SECTIONS 35-313 AND 35-314.03, and monies earned from investment shall be
11 credited to the TRUST fund.

12 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM
13 ESTABLISHED BY THIS ARTICLE. THE TRUST FUND SHALL BE USED EXCLUSIVELY FOR
14 THE PURPOSES OF THIS ARTICLE ON THE ORDER OF THE DIRECTOR.

15 D. Monies deposited in the state egg inspection TRUST fund:--

16 ~~1. Shall be subject to the provisions of section 35-143.01.~~

17 ~~2.~~ are exempt from the provisions of section 35-190 relating to
18 lapsing of appropriations. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND
19 UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE
20 STATE GENERAL FUND.

21 Sec. 36. Section 3-911, Arizona Revised Statutes, is amended to read:

22 3-911. Conservation and public education

23 A. The department may conserve the highly safeguarded native plants
24 including the use, and encouraging the use, of all methods and procedures
25 that are necessary to bring the highly safeguarded native plants to the point
26 where they are no longer in need of federal protection as endangered or
27 threatened plants or state protection as highly safeguarded native plants.
28 These methods and procedures include all activities associated with
29 scientific resource management such as research, census, law enforcement,
30 habitat protection and maintenance, propagation and transplantation.

31 B. The department shall encourage commercial businesses engaged in
32 land development or other activities conducted on private land to salvage
33 protected native plants to the greatest extent feasible.

34 C. The department may produce, and collect reasonable fees for,
35 seminars, courses, pamphlets and other educational programs and publications
36 concerning the effect, intent and interpretation of this chapter, the
37 identification, nature or condition of protected native plants and the
38 feasibility and techniques for their conservation and salvage for
39 presentation and dissemination to:

40 1. State agencies and political subdivisions, including state and
41 local law enforcement agencies and counties or municipalities which have
42 enacted or consider enacting ordinances preserving protected native plants.

43 2. Real estate and other commercial businesses engaged in land
44 development and other activities conducted on private land.

45 3. Landowners and the public at large.

1 4. Persons or entities that are convicted of violating this chapter or
2 rules and ordinances adopted pursuant to this chapter and that are ordered by
3 the court to attend educational classes or programs as part of their
4 sentences.

5 D. Notwithstanding section 35-148, subsection A, the director shall
6 deposit any monies received under this section in the TRUST fund established
7 under BY section 3-913.

8 Sec. 37. Section 3-913, Arizona Revised Statutes, is amended to read:

9 3-913. Fiscal provisions; fees; Arizona protected native plant
10 trust fund

11 A. The department shall collect nonrefundable fees for issuing
12 permits, tags, seals and receipts under this article, except for scientific
13 purposes, from landowners moving protected plants from one of their
14 properties to another, or from the independent owner of residential property
15 of ten acres or less if no such plants are to be offered for sale.

16 B. The director shall establish the amount of the fee by rule to
17 reasonably reflect the cost to the department for administering this chapter
18 or to reflect the value of the service, permit, tag, seal or receipt,
19 including at least the following amounts:

20 1. For cereus giganteus (saguaro), at least three dollars for each
21 plant.

22 2. For native plants ~~which~~ THAT the director determines to be useful
23 for revegetation and ~~which~~ THAT cannot be salvaged economically at a higher
24 fee, at least twenty-five cents per plant.

25 3. For all other native plants, at least two dollars for each plant.

26 4. For all receipts for live harvest restricted native plants cut or
27 removed for wood, at least one dollar per cord.

28 5. For a permit for the by-products or fiber of harvest restricted
29 native plants, at least one dollar per ton.

30 C. The Arizona protected native plant TRUST fund is established FOR
31 THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE PROGRAM
32 ESTABLISHED BY THIS CHAPTER. All fees and other monies collected under this
33 chapter except civil penalties assessed pursuant to section 3-933 or 3-934
34 shall be deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the TRUST
35 fund. ~~The monies deposited constitute a separate and permanent fund for use~~
36 ~~by the director, subject to legislative appropriation, to administer and~~
37 ~~enforce this chapter.~~ The director shall administer the TRUST fund AS
38 TRUSTEE. THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD
39 IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO
40 BE TRUST MONIES AS DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE
41 COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT
42 PURPOSES. On notice from the director, the state treasurer shall invest and
43 divest monies ~~in the~~ ANY TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as
44 provided by ~~section~~ SECTIONS 35-313 AND 35-314.03 and monies earned from
45 investment shall be credited to the TRUST fund. THE BENEFICIARY OF THE TRUST

1 IS THE PROGRAM ESTABLISHED BY THIS CHAPTER. THE TRUST FUND SHALL BE USED
2 EXCLUSIVELY FOR THE PURPOSES OF THIS CHAPTER ON THE ORDER OF THE DIRECTOR.
3 SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE AT THE END
4 OF THE FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL FUND.

5 Sec. 38. Section 3-1294, Arizona Revised Statutes, is amended to read:

6 3-1294. Improperly maintaining a stallion or jack;
7 classification; seizure and sale; expenses for care

8 A. A person who maintains a stallion or jack with reckless disregard
9 for the safety or health of other persons or property or livestock of another
10 is guilty of a class 2 misdemeanor.

11 B. In addition, the appropriate court, on affidavit by the livestock
12 officer, may issue an order to seize and impound the stallion or jack until
13 remedial action has been taken by the owner, agent or person in charge of the
14 stallion or jack. If no remedial action has been taken after twenty days,
15 the livestock officer shall sell the stallion or jack to the highest bidder
16 for cash at public auction. Immediately after the sale is made, or after
17 release to the owner who pays the hauling charges and expenses of feeding and
18 caring for the livestock, the livestock officer shall remit the proceeds to
19 the agency together with an itemized statement of the expense of the seizure
20 and sale, which shall be paid as other claims. The amount received by the
21 agency shall be deposited, ~~pursuant to sections 35-146 and 35-147,~~ in the
22 livestock custody TRUST fund established by section 3-1377 and retained until
23 final determination by the court of all actions arising from the seizure of
24 the stallion or jack.

25 Sec. 39. Section 3-1350, Arizona Revised Statutes, is amended to read:

26 3-1350. Registry of equine rescue facilities; fees

27 A. The department shall establish and maintain a registry of equine
28 rescue facilities and a public list of registered equine rescue facilities at
29 department offices and on the department's official website.

30 B. To be registered under this section an equine rescue facility must:

31 1. Be incorporated as a nonprofit corporation in this state.

32 2. Meet minimum standards prescribed by the department for:

33 (a) The physical condition of the facility.

34 (b) Equine care and treatment at the facility.

35 C. The term of registration is one year from the initial date of
36 registration, renewable annually.

37 D. For initial registration or annual renewal of registration, a
38 person representing the facility must file with the department:

39 1. A letter from a licensed veterinarian, dated within fifteen days of
40 filing, certifying that the facility meets the standards prescribed by the
41 department for the physical condition of the facility and for the care of
42 equines at the facility.

43 2. Documents demonstrating the facility's current status as a
44 nonprofit corporation in good standing in this state.

1 E. The registry shall include the documents filed for registration or
2 renewal of registration under subsection D of this section or a link to the
3 facility's website where the documents are displayed.

4 F. The director may:

5 1. Assess and collect fees for registering and renewing the
6 registration of equine rescue facilities under this section. REVENUES FROM
7 THE FEES SHALL BE DEPOSITED IN THE LIVESTOCK CUSTODY TRUST FUND ESTABLISHED
8 BY SECTION 3-1377.

9 2. Adopt rules to implement this section.

10 Sec. 40. Section 3-1372, Arizona Revised Statutes, is amended to read:

11 3-1372. Keeping livestock following seizure; expenses; use of
12 livestock in criminal prosecution; sale of forfeited
13 livestock; nonliability of state

14 A. A livestock officer who has seized livestock, as provided by this
15 article, shall safely keep and care for it while it is under the department's
16 custody and control, during which time any person may inspect the livestock.

17 B. The expense of seizing, feeding and caring for livestock shall be
18 paid from any fund available to the division for that purpose. The division
19 shall recover its expenses as provided by this article.

20 C. At any time before the hearing on the ownership of the livestock,
21 the county attorney of the county in which the livestock is seized may take
22 charge of and keep the livestock at the expense of the state when the
23 livestock is of evidentiary value in any criminal prosecution arising from
24 the seizure.

25 D. If livestock is forfeited to this state and ordered to be sold, as
26 provided by this article, the department shall cause notice to be posted in
27 three public places in the precinct where the livestock is held stating that
28 the livestock will be sold at public auction for cash to the highest bidder.
29 The notice shall be posted for at least five days before the sale. The
30 notice shall state the location where the livestock will be sold. Proceeds
31 from the sale shall be transmitted to the department to be deposited in the
32 livestock custody TRUST fund established by section 3-1377, and ~~upon~~ ON final
33 determination of all actions arising from the seizure of the livestock the
34 department shall pay the proceeds, less the hauling charges and expense of
35 feeding and caring for such livestock, to the persons entitled thereto under
36 the judgment of the court.

37 E. The director may contract with any person to handle, feed and care
38 for livestock taken into custody under this section. This state is not
39 liable for the injury or death of any person or livestock or damage to
40 property due to performance of the contract.

41 Sec. 41. Section 3-1377, Arizona Revised Statutes, is amended to read:

42 3-1377. Sale of seized stock; disposition of proceeds;
43 livestock custody trust fund

44 A. Livestock officers shall execute an order of sale made pursuant to
45 this article and deliver a bill of sale to the purchaser, describing the

1 livestock sold and the amount it sold for, and forward to the division a
2 duplicate of the bill of sale. ~~Upon~~ ON delivery of the bill of sale, title
3 to the livestock shall pass to the purchaser.

4 B. Immediately after the sale is made, or after release to the owner
5 who pays the hauling charges and expenses of feed and care of such livestock,
6 livestock officers shall remit the proceeds of the sale to the department,
7 together with an itemized statement of the expense of the seizure and sale,
8 which shall be paid as other claims.

9 C. The amount received by the department pursuant to this section and
10 sections 3-1294, 3-1350, 3-1372, 3-1402, 3-1403 and 3-1721 shall be
11 deposited, ~~pursuant to sections 35-146 and 35-147,~~ in a special fund
12 designated the livestock custody TRUST fund, WHICH IS ESTABLISHED FOR THE
13 EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL
14 PROGRAM ESTABLISHED BY THIS CHAPTER. THE DIRECTOR SHALL ADMINISTER THE FUND
15 AS TRUSTEE. THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND
16 HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE
17 CONSIDERED TO BE TRUST MONIES AS DEFINED IN SECTION 35-310 AND WHICH SHALL
18 NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR
19 INVESTMENT PURPOSES. On notice from the ~~department~~ DIRECTOR, the state
20 treasurer shall invest and divest ~~monies in the~~ ANY TRUST fund MONIES
21 DEPOSITED IN THE STATE TREASURY as provided by ~~section~~ SECTIONS 35-313 AND
22 35-314.03, and monies earned from investment shall be credited to the TRUST
23 fund. THE BENEFICIARIES OF THE TRUST ARE THE AGRICULTURAL PROGRAMS
24 ESTABLISHED BY THIS CHAPTER. THE TRUST FUND SHALL BE USED EXCLUSIVELY FOR
25 THE PURPOSES OF THIS CHAPTER ON THE ORDER OF THE DIRECTOR. The TRUST fund is
26 exempt from the provisions of section 35-190 relating to lapsing of
27 appropriations. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED
28 BALANCE AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL
29 FUND.

30 ~~D. The livestock custody fund is subject to legislative appropriation~~
31 ~~for use by the department for the enforcement of any of the provisions of~~
32 ~~this title.~~

33 Sec. 42. Section 3-1402, Arizona Revised Statutes, is amended to read:

34 3-1402. Holding and sale of stray animals; repossession before
35 and after sale; nonliability of state

36 A. Any person who finds a stray animal may attempt to locate and, if
37 located, notify the owner where the animal may be found. If the owner is
38 unknown or cannot be located, or the person elects not to locate or notify
39 the owner, the person shall notify the department and the department shall
40 follow procedures pursuant to this section.

41 B. A livestock officer or inspector who finds or is notified of a
42 stray animal shall attempt to locate the owner and, if located, notify the
43 owner where the animal may be found. If the owner does not take immediate
44 possession of the animal, or if the owner or claimant is unknown or cannot be
45 located, the livestock officer or inspector shall hold the stray animal for

1 at least seven days, but shall hold the stray animal up to fourteen days at
2 the request of any person or organization, and sell it at public auction to
3 the highest bidder for cash, after giving at least five days' notice of the
4 sale.

5 C. The department shall cause notice to be posted in three public
6 places in the justice precinct where the stray animal is held stating:

7 1. That the stray animal will be sold at public auction for cash to
8 the highest bidder.

9 2. The location where the stray animal will be held and the location
10 where the animal will be sold.

11 D. The owner of a stray animal may take possession of the animal at
12 any time prior to sale by proving ownership and paying the inspection fee and
13 all expenses incurred in keeping and caring for the animal.

14 E. If the owner of the stray does not claim the animal before the day
15 of sale, or if the owner is unknown or cannot be located, the livestock
16 officer or inspector shall sell the animal pursuant to the notice, and shall
17 deliver an invoice of sale or a livestock inspection certificate to the
18 purchaser. The owner of an animal sold may take possession of it at any time
19 before the purchaser sells it by paying to the purchaser the purchase price
20 paid at the sale, together with the expense of keeping and caring for the
21 animal from the date of sale to the time the owner takes possession of the
22 animal.

23 F. Livestock that is received at auction markets without proper
24 documentation but with no evidence of criminal intent by the shipper may be
25 sold, but the director shall impound the proceeds of the sale in the
26 livestock custody TRUST fund established by section 3-1377. On presentation
27 of proper documentation of ownership, the director shall pay the proceeds,
28 less any charges incurred, to the person who is entitled to the proceeds.

29 G. The director may contract with any person to handle, feed and care
30 for stray animals taken into custody under this section. This state is not
31 liable for the injury or death of any person or stray animal or damage to
32 property due to performance of the contract.

33 Sec. 43. Section 3-1403, Arizona Revised Statutes, is amended to read:

34 3-1403. Report by livestock officer or inspector; preliminary
35 disposition of proceeds of sale

36 A. ~~Upon~~ ON making the sale as provided by section 3-1402, the
37 livestock officer or inspector shall notify the division of the name of the
38 purchaser, the time and place of sale, the amount for which the animal was
39 sold and a description of the animal showing the marks and brands, if any, or
40 other identifying marks and shall pay to the department the net proceeds
41 realized at the sale.

42 B. The department shall place the amount realized from the sale of
43 stray animals in the livestock custody TRUST fund established by section
44 3-1377.

1 Sec. 44. Section 3-1721, Arizona Revised Statutes, is amended to read:

2 3-1721. Petition of seizure; notice of seizure; lien for
3 expenses; forced sale; disposition of proceeds;
4 nonliability of state; neglect or cruel treatment of
5 equine; civil penalty; legal representation

6 A. Any person or peace officer who believes that an equine is in poor
7 physical condition because of neglect or cruel treatment may petition ~~upon~~ ON
8 affidavit a justice of the peace of the precinct or a city magistrate of the
9 city in which the equine is found for an order authorizing the department to
10 take possession of and provide care for the equine for a fifteen-day period.
11 The order shall not be issued unless the affidavit provides that the
12 livestock custody TRUST fund established by section 3-1377 has a balance that
13 permits the department to provide such care or that the department can
14 demonstrate that the expenses have been contracted for pursuant to subsection
15 E of this section. The clerk of the court or justice of the peace, as the
16 case may be, after filing and docketing the petition, shall enter a brief
17 statement of the petition on the docket and set a time for a hearing that is
18 not less than five and not more than fifteen days after the petition is
19 filed. The order shall state the time and place of the hearing.

20 B. On receiving the order the department shall take possession of the
21 equine. The department shall serve the order on the owner of the equine, if
22 known, at least twenty-four hours before the hearing, either by personal
23 service on the owner or by leaving a copy of the order with a person of
24 suitable discretion at the owner's residence or place of business. If the
25 owner is not known, the department shall give notice by posting a copy of the
26 order on the day of the seizure in a conspicuous place at the location where
27 the equine was seized and in at least two public places in the county where
28 the equine was seized. The order shall be served by a livestock officer,
29 constable or sheriff of the county.

30 C. If, at the hearing, it is determined that the equine at the time of
31 taking possession was not in poor physical condition because of neglect or
32 cruel treatment, the owner may immediately reclaim the equine and shall not
33 be liable for payment of any expense incurred in the handling, feeding and
34 care of the equine. Unless malice is proved, no action taken by an employee
35 of the department or by a peace officer pursuant to this article shall be
36 subject to civil or criminal liability.

37 D. ~~Upon~~ ON failure of the owner to be awarded immediate, expense-free
38 possession of the equine pursuant to subsection C of this section, the
39 department shall either sell the equine at public auction or, if the equine's
40 condition makes its sale impractical, dispose of the equine in the most
41 humane manner possible. The department shall deposit, ~~pursuant to sections~~
42 ~~35-146 and 35-147~~, the proceeds of the sale in the livestock custody TRUST
43 fund established by section 3-1377 for distribution in the following
44 priority:

1 1. The department shall be reimbursed for auction, handling, feeding
2 and caring expenses.

3 2. Any monies derived from the sale in excess of the expenses to be
4 paid pursuant to paragraph 1 shall be paid to the owner of the equine. After
5 thirty days if the owner has not claimed the money, this money shall revert
6 to the livestock custody TRUST fund established by section 3-1377.

7 E. The director may contract with any person or group to handle, feed
8 and care for any equine taken into custody pursuant to this section. The
9 state shall not be liable for injury or death of any person or equine or
10 damage to property caused by the performance of the contract.

11 F. Notwithstanding any provision of this article to the contrary, the
12 county attorney of the county in which the equine was seized may, at any time
13 prior to the expiration of fifteen days after the seizure of the equine, MAY
14 take charge of and keep the equine at the expense of the county when the
15 county attorney considers it to be of evidentiary value in any criminal
16 prosecution relating to the condition of the equine.

17 G. In addition to violating section 13-2910, a person who subjects an
18 equine to neglect or cruel treatment is subject to a civil penalty of not
19 more than seven hundred fifty dollars for each violation. All civil
20 penalties assessed pursuant to this subsection shall be deposited, pursuant
21 to sections 35-146 and 35-147, in the state general fund.

22 H. The county attorney of the county, or the city attorney of the
23 city, in which the livestock is seized may represent the livestock officer
24 and the interests of this state in proceedings under this section.

25 I. ~~Upon ON receipt the department shall deposit, pursuant to sections~~
26 ~~35-146 and 35-147,~~ all monies, except civil penalties, collected pursuant to
27 this section or received as a money donation from any public or private
28 group, society, association or individual in the livestock custody TRUST fund
29 established by section 3-1377. The monies in the fund shall be used to
30 reimburse the department for expenses incurred in the handling, feeding, care
31 and auctioning of equines seized pursuant to this section.

32 Sec. 45. Section 3-2602, Arizona Revised Statutes, is amended to read:
33 3-2602. Administration and enforcement

34 A. In addition to other duties imposed by law, the associate director
35 of the division shall administer and enforce the provisions of this article
36 under the supervision of the director.

37 B. The salaries and expenses of travel and subsistence for employees
38 who administer and enforce this article shall be paid from the commercial
39 feed TRUST fund.

40 Sec. 46. Section 3-2604, Arizona Revised Statutes, is amended to read:
41 3-2604. Publications; membership in professional organizations

42 A. The department may publish at such times and in such form as the
43 director deems proper:

44 1. Information concerning the sale of commercial feeds and
45 customer-formula feeds together with such data on their production and use as

1 he may consider advisable, but the information concerning production and use
2 of commercial feeds and customer-formula feeds shall not disclose the
3 operations of any one person.

4 2. Reports of chemists' findings based on official samples of each
5 brand of commercial feed and customer-formula feed sampled and analyzed as
6 compared to the guaranteed chemical analysis for each such feed.

7 B. The director may authorize employees of the department to:

8 1. Join and subscribe to any state, district, regional or national
9 organization or publications relating to sale and distribution of or control
10 of sale and distribution of commercial feeds.

11 2. Attend state, district, regional and national meetings relating to
12 sale and distribution or control of sale and distribution of commercial
13 feeds.

14 C. Expenses authorized by this section shall be paid from and limited
15 by the commercial feed TRUST fund.

16 Sec. 47. Section 3-2607, Arizona Revised Statutes, is amended to read:
17 3-2607. Commercial feed trust fund

18 A. The commercial feed TRUST fund is established FOR THE EXCLUSIVE
19 PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL PROGRAM
20 ESTABLISHED BY THIS ARTICLE. All monies collected under the provisions of
21 this article shall be deposited, ~~pursuant to sections 35-146 and 35-147,~~ in
22 the TRUST fund.

23 B. The director shall administer the fund AS TRUSTEE. THE STATE
24 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES
25 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS
26 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER
27 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from
28 the director, the state treasurer shall invest and divest ~~monies in the~~ ANY
29 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided by section
30 SECTIONS 35-313 AND 35-314.03, and monies earned from investment shall be
31 credited to the TRUST fund.

32 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURE PROGRAM ESTABLISHED
33 BY THIS ARTICLE. The TRUST fund shall be used solely for the ~~purpose of~~
34 ~~administering the provisions~~ PURPOSES of this article ~~upon~~ ON the order of
35 the director.

36 D. The commercial feed TRUST fund is exempt from the provisions of
37 section 35-190 relating to lapsing appropriations. SURPLUS MONIES, INCLUDING
38 ANY UNEXPENDED AND UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT
39 REVERT TO THE STATE GENERAL FUND.

40 Sec. 48. Section 3-2913, Arizona Revised Statutes, is amended to read:
41 3-2913. Aquaculture trust fund

42 A. The aquaculture TRUST fund is established ~~consisting~~ FOR THE
43 EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE AGRICULTURAL
44 PROGRAM ESTABLISHED BY THIS ARTICLE. THE TRUST FUND CONSISTS of revenues
45 received from fees and all other sources under this article except civil

1 penalties under section 3-2912. The monies collected constitute a separate
2 and permanent fund for the use of the director in administering and enforcing
3 this article.

4 B. The director shall administer the TRUST fund AS TRUSTEE. THE STATE
5 TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES
6 DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS
7 DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER
8 MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. On notice from
9 the director, the state treasurer shall invest and divest monies ~~in the~~ ANY
10 TRUST fund MONIES DEPOSITED IN THE STATE TREASURY as provided by section
11 SECTIONS 35-313 AND 35-314.03, and monies earned from investment shall be
12 credited to the TRUST fund.

13 C. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL PROGRAM
14 ESTABLISHED BY THIS ARTICLE.

15 D. Any monies remaining unexpended in the fund on June 30 each year
16 shall be carried forward to the following year and DO NOT REVERT TO THE STATE
17 GENERAL FUND. The director shall take that amount into account in computing
18 and setting fees under this article for that year.

19 Sec. 49. Section 5-113, Arizona Revised Statutes, is amended to read:
20 5-113. Disposition of revenues and monies; funds; committee

21 A. All revenues derived from permittees, permits and licenses as
22 provided by this article shall be deposited, pursuant to sections 35-146 and
23 35-147, in the state general fund.

24 B. The Arizona county fairs racing betterment fund is established
25 under the jurisdiction of the department. The department shall distribute
26 monies from the fund to the county fair association or county fair racing
27 association of each county conducting a county fair racing meeting in such
28 proportion as the department deems necessary for the promotion and betterment
29 of county fair racing meetings. All expenditures from the fund shall be made
30 upon ON claims approved by the department. In order to be eligible for
31 distributions from the fund, a county fair association must provide the
32 department with an annual certification in the form required by the
33 department supporting expenditures made from the fund. Balances remaining in
34 the fund at the end of a fiscal year do not revert to the state general fund.

35 C. The county fairs livestock and agriculture promotion fund is
36 established under the control of the governor and shall be used for the
37 purpose of promoting the livestock and agricultural resources of the state
38 and for the purpose of conducting an annual Arizona national livestock fair
39 by the Arizona exposition and state fair board to further promote livestock
40 resources. The direct expenses less receipts of the livestock fair shall be
41 paid from this fund, but such payment shall not exceed thirty per cent of the
42 receipts of the fund for the preceding fiscal year. Balances remaining in
43 the fund at the end of a fiscal year do not revert to the state general fund.
44 All expenditures from the fund shall be made upon claims approved by the
45 governor, as recommended by the livestock and agriculture committee, for the

1 promotion and betterment of the livestock and agricultural resources of this
2 state. The livestock and agriculture committee is established and shall be
3 composed of the following members, at least three of whom are from counties
4 that have a population of less than five hundred thousand persons, appointed
5 by the governor:

- 6 1. Three members representing county fairs.
- 7 2. One member representing Arizona livestock fairs.
- 8 3. One member representing the university of Arizona college of
9 agriculture.
- 10 4. One member representing the livestock industry.
- 11 5. One member representing the farming industry.
- 12 6. One member representing the governor's office.
- 13 7. One member representing the Arizona state fair conducted by the
14 Arizona exposition and state fair board.
- 15 8. One member representing the general public.

16 D. The governor shall appoint a chairman from the members. Terms of
17 members shall be four years.

18 E. Members of the committee are not eligible to receive compensation
19 but are eligible to receive reimbursement for expenses pursuant to title 38,
20 chapter 4, article 2.

21 F. The Arizona breeders' award fund is established under the
22 jurisdiction of the department. The department shall distribute monies from
23 the fund to the breeder, or the breeder's heirs, devisees or successors, of
24 every winning horse or greyhound foaled or whelped in this state, as defined
25 by section 5-114, in a manner and in an amount established by rules of the
26 commission to protect the integrity of the racing industry and promote,
27 improve and advance the quality of race horse and greyhound breeding within
28 this state. The department may contract with a breeders' association to
29 provide data, statistics and other information necessary to enable the
30 department to carry out the purposes of this subsection. Persons who are not
31 eligible to be licensed under section 5-107.01 or persons who have been
32 refused licenses under section 5-108 are not eligible to participate in the
33 Arizona greyhound breeders' award fund. Balances remaining in the fund at
34 the end of a fiscal year do not revert to the state general fund. For the
35 purposes of this subsection, "breeder" means the owner or lessee of the dam
36 of the animal at the time the animal was foaled or whelped.

37 G. The Arizona stallion award fund is established under the
38 jurisdiction of the department to promote, improve and advance the quality of
39 stallions in this state. The department shall distribute monies from the
40 fund to the owner or lessee, or the owner's or lessee's heirs, devisees or
41 successors, of every Arizona stallion whose certified Arizona bred offspring,
42 as prescribed in section 5-114, finishes first, second or third in an
43 eligible race in this state. The department may contract with a breeders'
44 association to provide data, statistics and other information necessary to
45 enable the department to carry out the purposes of this subsection. Balances

1 remaining in the fund at the end of a fiscal year do not revert to the state
2 general fund. The commission shall adopt rules pursuant to title 41, chapter
3 6 to carry out the purposes of this subsection. The rules shall prescribe at
4 a minimum:

5 1. The manner and procedure for distribution from the fund, including
6 eligibility requirements for owners and lessees.

7 2. Subject to availability of monies in the fund, the amount to be
8 awarded.

9 3. The requirements for a stallion registered with the jockey club,
10 Lexington, Kentucky or with the American quarter horse association, Amarillo,
11 Texas to be certified as an Arizona stallion.

12 4. The types and requirements of races for which an award may be made.

13 H. The greyhound and retired racehorse adoption fund is established.
14 The department shall administer the fund and maintain separate accounts for
15 greyhound adoptions and retired racehorse adoptions. All revenues derived
16 from license fees collected from dog breeders, racing kennels and other
17 operations pursuant to section 5-104, subsection F, paragraphs 7, 8 and 9
18 shall be deposited, pursuant to sections 35-146 and 35-147, in the greyhound
19 adoption account of the fund. All revenues derived from retired racehorse
20 adoption surcharges collected pursuant to section 5-104, subsection G shall
21 be deposited, pursuant to sections 35-146 and 35-147, in the retired
22 racehorse adoption account of the fund. The department shall distribute
23 monies from the fund to provide financial assistance to nonprofit enterprises
24 approved by the commission to promote the adoption of former racing
25 greyhounds as domestic pets and to promote the adoption of retired racehorses
26 pursuant to section 5-104, subsection G in a manner and in an amount
27 established by rules of the commission. Balances remaining in the fund at
28 the end of a fiscal year do not revert to the state general fund.

29 I. The county fair racing fund is established. The department shall
30 administer the fund. Monies in the fund are continuously appropriated. The
31 department shall use fund monies for the administration of county fair
32 racing. Any monies remaining unexpended in the fund at the end of the fiscal
33 year in excess of seventy-five thousand dollars shall revert to the state
34 general fund.

35 J. The agricultural consulting and training TRUST fund is established
36 FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING. ~~Monies~~
37 ~~in the fund are continuously appropriated. The Arizona department of~~
38 ~~agriculture shall use monies in the fund for the agricultural consulting and~~
39 training program established by section 3-109.01. The DIRECTOR OF THE
40 Arizona department of agriculture shall administer the TRUST fund AS TRUSTEE.
41 THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST
42 ANY MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST
43 MONIES AS DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH
44 ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON
45 NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST ANY

1 TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS
2 35-313 AND 35-314.03, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO
3 THE TRUST FUND. THE BENEFICIARY OF THE TRUST IS THE AGRICULTURAL CONSULTING
4 AND TRAINING PROGRAM ESTABLISHED BY SECTION 3-109.01. SURPLUS MONIES,
5 INCLUDING balances remaining in the TRUST fund at the end of a fiscal year do
6 not revert to the state general fund.

7 Sec. 50. Section 3-108, Arizona Revised Statutes, as amended by this
8 act, is amended to read:

9 3-108. Administrative support fund; use; exemption

10 A. A department of agriculture administrative support fund is
11 established. All monies collected pursuant to any interagency agreement with
12 the department pursuant to section 3-588, subsection A and section 3-1084,
13 subsection A shall be deposited, pursuant to sections 35-146 and 35-147, in
14 the fund.

15 B. All monies collected pursuant to any interagency agreement with the
16 department in accordance with section 3-468.03, subsection A and section
17 3-526.03, subsection A shall be deposited in the administrative support fund
18 or deposited in the citrus, fruit and vegetable REVOLVING trust fund
19 established by section 3-447 pursuant to the terms of the interagency
20 agreement. Deposits in the administrative support fund shall be made
21 pursuant to sections 35-146 and 35-147.

22 C. Monies in the fund are continuously appropriated and exempt from
23 the provisions of section 35-190 relating to lapsing of appropriations.

24 Sec. 51. Section 3-214.01, Arizona Revised Statutes, as amended by
25 this act, is amended to read:

26 3-214.01. Dangerous plants, pests and diseases fund

27 A. A dangerous plants, pests and diseases trust fund is established
28 ~~for the exclusive purpose of implementing, continuing and supporting the~~
29 ~~agricultural program established by this article.~~ All monies collected under
30 the provisions of this article except civil penalties assessed pursuant to
31 section 3-204, 3-205, 3-205.02 or 3-215.01 shall be deposited, PURSUANT TO
32 SECTIONS 35-146 AND 35-147, in the dangerous plants, pests and diseases trust
33 fund.

34 B. The director shall administer the trust fund as trustee. The state
35 ~~treasurer shall accept, separately account for and hold in trust any monies~~
36 ~~deposited in the state treasury, which are considered to be trust monies as~~
37 ~~defined in section 35-310 and which shall not be commingled with any other~~
38 ~~monies in the state treasury except for investment purposes.~~ On notice from
39 the director, the state treasurer shall invest and divest MONIES IN THE any
40 trust fund monies deposited in the state treasury as provided by SECTION
41 sections 35-313 and 35-314.03, and monies earned from investment shall be
42 credited to the trust fund.

43 C. ~~The beneficiary of the trust is the agricultural program~~
44 ~~established by this article.~~ All monies in the dangerous plants, pests and
45 diseases trust fund are to be used by the department SUBJECT TO LEGISLATIVE

1 APPROPRIATION ~~exclusively~~ to carry out the provisions of this article,
2 including salaries, fees and office, administrative, bonding and travel
3 expenses incurred.

4 D. The unexpended and unencumbered balance of monies, if any,
5 remaining in the dangerous plants, pests and diseases ~~trust~~ fund at the end
6 of each fiscal year shall not revert to the state general fund.

7 Sec. 52. Section 3-218, Arizona Revised Statutes, as amended by this
8 act, is amended to read:

9 3-218. Citrus budwood certification; fee

10 A. The director may direct a state citrus budwood certification
11 program. Under the program, inspectors may:

- 12 1. Monitor the fumigation of blocks of citrus trees.
- 13 2. Monitor the transplanting of seedlings from the seed bed.
- 14 3. Monitor the cutting of budwood from mother blocks or other
15 certified blocks within a twenty-four hour period.
- 16 4. Tag certified citrus trees with certified tags.
- 17 5. Map blocks in a certified nursery.
- 18 6. Audit records that are kept by the nursery and by private
19 inspection associations.

20 B. The director may assess a fee of not more than ten cents per
21 budwood to cover the costs of implementing the citrus budwood certification
22 program. The director shall establish the amount of the fee by rule pursuant
23 to a cooperative agreement among the department, private inspection
24 associations and the university of Arizona, Yuma Mesa agricultural center.
25 The director shall deposit, PURSUANT TO SECTIONS 35-146 AND 35-147, revenues
26 collected from the fee in the dangerous plants, pests and diseases ~~trust~~ fund
27 established by section 3-214.01.

28 Sec. 53. Section 3-233, Arizona Revised Statutes, as amended by this
29 act, is amended to read:

30 3-233. Powers and duties; fees; penalty

31 A. For the purpose of carrying out this article, the director may:
32 1. In order to have access to seeds and the records pertaining to
33 seeds subject to this article and the rules adopted under this article, enter
34 upon:

35 (a) Any established plant, warehouse or place of business during
36 customary business hours.

37 (b) Any truck or other conveyance operated on land, on water or in the
38 air on probable cause or reasonable suspicion to believe that a violation of
39 this article has occurred.

40 2. Issue and enforce a written cease and desist order to the owner or
41 custodian of any lot of agricultural, vegetable or ornamental plant seed that
42 the director finds is in violation of this article, as provided in section
43 3-238, and any lot or lots of seed sold, or transported for sale, that do not
44 meet all requirements of the plant variety protection act (P.L. 91-577; 84
45 Stat. 1542; 7 United States Code sections 2321 through 2582).

1 3. Provide through the state agricultural laboratory for seed testing
2 facilities, employ qualified persons and incur expenses necessary to comply
3 with this article.

4 4. Through the state agricultural laboratory:

5 (a) Provide for making purity, germination, noxious weed, tetrazolium
6 and pathology tests of seeds for farmers and dealers on request pursuant to
7 rules prescribed by the director governing such testing.

8 (b) Collect charges for the tests as prescribed by the director.

9 5. Cooperate with the United States department of agriculture and
10 other agencies in seed law enforcement.

11 6. Revoke, suspend, restrict, deny or choose not to renew a license
12 issued under this article or fix periods and terms of probation for a license
13 holder after a hearing at which the license holder is found by a
14 preponderance of the evidence to have violated this article or any of the
15 rules adopted under this article.

16 7. Establish by rule fees that are sufficient to cover the costs of
17 interstate and international exportation inspection activities under section
18 3-232, subsection A, paragraph 1, but annually not more than one dollar fifty
19 cents per acre. Monies received under this paragraph shall be deposited in
20 the seed law trust fund pursuant to section 3-234.

21 B. For the purposes of this article, the director, after an
22 opportunity for a hearing, shall establish and collect the following fees:

23 1. For a seed dealer's license, not more than fifty dollars per year.

24 2. For a labeler's license, not more than five hundred dollars per
25 year.

26 C. The director shall assess a license holder who does not submit the
27 annual license renewal fees to the department by July 1 a penalty of ten per
28 cent of the amount of the license fee per month for not more than three
29 months. Penalties collected under this subsection shall be deposited in the
30 seed law trust fund pursuant to section 3-234.

31 Sec. 54. Section 3-234, Arizona Revised Statutes, as amended by this
32 act, is amended to read:

33 3-234. Seed law fund

34 A. A seed law trust fund is established ~~for the exclusive purpose of~~
35 ~~implementing, continuing and supporting the agricultural program established~~
36 ~~by this article.~~ All monies collected pursuant to section 3-233 shall be
37 deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the seed law trust
38 fund.

39 B. The director shall administer the trust fund as trustee. The state
40 treasurer shall accept, separately account for and hold in trust any monies
41 deposited in the state treasury, which are considered to be trust monies as
42 defined in section 35-310 and which shall not be commingled with any other
43 monies in the state treasury except for investment purposes. On notice from
44 the director, the state treasurer shall invest and divest MONIES IN THE any
45 trust fund monies deposited in the state treasury as provided by SECTION

1 sections 35-313 and ~~35-314.03~~, and monies earned from investment shall be
2 credited to the trust fund. ~~Surplus monies, including any unexpended and~~
3 ~~unencumbered balance at the end of the fiscal year, do not revert to the~~
4 ~~state general fund.~~

5 C. ~~The beneficiary of the trust is the agricultural program~~
6 ~~established by this article.~~ All monies in the seed law trust fund are
7 SUBJECT TO LEGISLATIVE APPROPRIATION TO THE DEPARTMENT to be spent as
8 directed by the director to carry out the provisions of this article.

9 Sec. 55. Section 3-266, Arizona Revised Statutes, as amended by this
10 act, is amended to read:

11 3-266. Annual reports and publications; membership in
12 professional organizations

13 A. The director may provide for publishing at such times and in such
14 form as the director deems proper information concerning the sale of
15 fertilizer materials together with such data on their production and use as
16 the director considers advisable, and a report of the monies received and
17 expended, but the information concerning production and use of fertilizer
18 materials shall not disclose the operations of any one person. Reports of
19 chemists' findings based on official samples of each brand of fertilizer
20 material sampled and analyzed during the year as compared to the guaranteed
21 chemical analysis for each such fertilizer material shall be published
22 annually as promptly as possible after January 1 each year.

23 B. The director may authorize employees of the division to join and
24 subscribe to any state, district, regional or national organizations or
25 publications relating to sale and distribution or control of sale and
26 distribution of fertilizer materials, and attend state, district, regional
27 and national meetings relating to sale and distribution or control of sale
28 and distribution of fertilizer materials.

29 C. Expenses authorized by this section shall be paid from and limited
30 by the fertilizer materials trust fund.

31 Sec. 56. Section 3-269, Arizona Revised Statutes, as amended by this
32 act, is amended to read:

33 3-269. Fertilizer materials fund

34 A. The fertilizer materials trust fund is established ~~for the~~
35 ~~exclusive purpose of implementing, continuing and supporting the agricultural~~
36 ~~program established by this article.~~ Except as provided in section 3-272,
37 subsection B, paragraph 2, all monies collected under the provisions of this
38 article shall be deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the
39 trust fund.

40 B. The director shall administer the trust fund as trustee. The state
41 treasurer shall accept, separately account for and hold in trust any monies
42 deposited in the state treasury, which are considered to be trust monies as
43 defined in section 35-310 and which shall not be commingled with any other
44 monies in the state treasury except for investment purposes. On notice from
45 the director, the state treasurer shall invest and divest MONIES IN THE any

1 ~~trust fund monies deposited in the state treasury as provided by SECTION~~
2 ~~sections 35-313 and 35-314.03, and monies earned from the investment shall be~~
3 ~~credited to the trust fund.~~

4 C. ~~The beneficiary of the trust is the agricultural program~~
5 ~~established by this article. The trust fund shall be used solely for the~~
6 ~~purposes of this article on the order of the director.~~

7 D. The fertilizer materials ~~trust fund~~ shall be exempt from the
8 provisions of section 35-190 relating to lapsing appropriations. ~~Surplus~~
9 ~~monies, including any unexpended and unencumbered balance at the end of the~~
10 ~~fiscal year, do not revert to the state general fund.~~

11 Sec. 57. Section 3-344, Arizona Revised Statutes, as amended by this
12 act, is amended to read:

13 3-344. Advisory committee; membership; appointment; duties;
14 uniformity of labeling and standards of pesticides

15 A. The director may appoint an advisory committee as needed to assist
16 and advise the director and associate director in adopting technical rules.
17 The director shall designate the chairman. Meetings of the committee shall
18 be held upon call of the associate director or director. Members of the
19 committee shall serve without compensation, but shall be entitled to
20 reimbursement for expenses of travel and subsistence incurred in the
21 performance of their duties, which shall be paid from and limited by the
22 pesticide ~~trust~~ fund.

23 B. In order to avoid confusion endangering the public health, which
24 would result from diverse requirements, particularly as to the labeling and
25 coloring of pesticides, and to avoid increased costs to the public due to the
26 necessity of complying with such diverse requirements in the manufacture and
27 sale of such pesticides, it is desirable that there should be uniformity
28 between the requirements of the several states and the federal government
29 relating to such pesticides. To this end, the director may after a hearing
30 adopt rules applicable to and in conformity with primary standards
31 established by this article as have been or may be prescribed by federal
32 agencies with respect to pesticides.

33 Sec. 58. Section 3-345, Arizona Revised Statutes, as amended by this
34 act, is amended to read:

35 3-345. Publications; membership in professional organizations

36 A. The department may publish, at such times and in such forms as the
37 director deems proper, information concerning the production and use of
38 pesticides and reports of chemists' findings based on official samples taken
39 of pesticides sold within the state as compared with guaranteed analyses
40 registered under section 3-351.

41 B. The director may authorize employees of the department to:

42 1. Join and subscribe to any state, district, regional or national
43 organizations or publications relating to and dealing with pesticides.

1 2. Attend state, district, regional and national meetings relating to
2 pesticides that in the director's discretion may be necessary or for the best
3 interests of those affected by this article.

4 C. Expenses authorized by this section shall be paid from and limited
5 by the pesticide ~~trust~~ fund.

6 Sec. 59. Section 3-350, Arizona Revised Statutes, as amended by this
7 act, is amended to read:

8 3-350. Pesticide fund

9 A. The pesticide ~~trust~~ fund is established for the ~~exclusive purpose~~
10 ~~of implementing, continuing and supporting the agricultural program~~
11 ~~established by this article.~~ Except as provided in section 3-351, subsection
12 D, paragraph 2, all monies collected under the provisions of this article
13 shall be deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the ~~trust~~
14 fund.

15 B. The director shall administer the ~~trust fund as trustee.~~ The ~~state~~
16 ~~treasurer shall accept, separately account for and hold in trust any monies~~
17 ~~deposited in the state treasury, which are considered to be trust monies as~~
18 ~~defined in section 35-310 and which shall not be commingled with any other~~
19 ~~monies in the state treasury except for investment purposes.~~ On notice from
20 the director, the state treasurer shall invest and divest MONIES IN THE ~~any~~
21 ~~trust fund monies deposited in the state treasury as provided by SECTION~~
22 ~~sections 35-313 and 35-314.03, and monies earned from investment shall be~~
23 ~~credited to the trust fund.~~

24 C. The ~~beneficiary of the trust is the agricultural program~~
25 ~~established by this article.~~ The ~~trust fund~~ shall be used solely for the
26 purposes of this article on the order of the director.

27 D. The pesticide ~~trust~~ fund shall be exempt from the provisions of
28 section 35-190 relating to lapsing appropriations. ~~Surplus monies, including~~
29 ~~any unexpended and unencumbered balance at the end of the fiscal year, do not~~
30 ~~revert to the state general fund.~~

31 Sec. 60. Section 3-354, Arizona Revised Statutes, as amended by this
32 act, is amended to read:

33 3-354. Cease and desist orders; condemnation and destruction or
34 sale of noncomplying pesticides or devices

35 A. When the director finds from investigation that any pesticide or
36 device being distributed or delivered for transportation or transported in
37 intrastate commerce or between points within the state through any point
38 outside this state does not meet the requirements of this article as follows,
39 the director may take the action prescribed by subsection B of this section:

40 1. In the case of a pesticide:

41 (a) If it is adulterated or misbranded.

42 (b) If it has not been registered, if necessary, under section 3-351.

43 (c) If it fails to bear on its label the information required by law.

44 (d) If it is a white powder pesticide and is not colored as required
45 under this article.

1 2. In the case of a device, if it is misbranded.
2 B. Upon the discovery of any of the facts set forth in subsection A of
3 this section:
4 1. The director may serve the person violating this article with a
5 cease and desist order requiring the person, on receiving the notice, to
6 immediately cease and desist the violation. The order shall be served by any
7 method of service authorized by the Arizona rules of civil procedure.
8 2. The department may issue and serve a written cease and desist order
9 on the owner or custodian of any pesticide or device found to be in violation
10 of this article. The pesticide or device shall not be sold, used or removed
11 until this article has been complied with and the pesticide or device has
12 been released in writing by the director or the violation has been otherwise
13 disposed of as provided in this article by a court of competent jurisdiction.
14 3. If the director discovers any pesticide or device that is in
15 violation of this article, and the owner or custodian is not available for
16 service of the order, the director may attach the order to the pesticide or
17 device and the pesticide or device shall not be sold, used or removed until
18 this article has been complied with and the pesticide or device has been
19 released in writing by the director or the violation has been otherwise
20 disposed of as provided in this article by a court of competent jurisdiction.
21 C. After a cease and desist order is served on any person, either that
22 person or the director may file an action in the superior court in the county
23 in which a violation of this article is alleged to have occurred for an
24 adjudication of the alleged violation. The court may issue temporary or
25 permanent injunctions, mandatory or restraining, and intermediate orders it
26 deems necessary or advisable. The court may order condemnation of any
27 pesticide or device that does not meet the requirements of this article. The
28 action shall be tried de novo.
29 D. If the article is condemned, it shall be disposed of, after entry
30 of decree, by destruction or sale as the court directs, and the proceeds, if
31 the article is sold, less legal costs, shall be paid into the pesticide trust
32 fund. On payment of costs and execution and delivery of a good and
33 sufficient bond conditioned so that the article shall not be disposed of
34 unlawfully, the court may direct that the article be delivered to the owner
35 of the article for relabeling or reprocessing as the case may be.
36 E. When a decree of condemnation is entered against the article, court
37 costs, fees and storage and other proper expenses shall be awarded against
38 the person, if any, intervening as claimant of the article.
39 Sec. 61. Section 3-415, Arizona Revised Statutes, as amended by this
40 act, is amended to read:
41 3-415. Administrative services; reimbursement
42 A. The marketing commission or marketing committee may employ staff,
43 to serve at the pleasure of the commission or committee, and may prescribe
44 the terms and conditions of employment of employees as necessary to perform
45 the functions prescribed by this article, the marketing order or marketing

1 agreement. The commission or committee may provide, at a rate or amount
2 determined by the commission or committee, compensation, vehicles and vehicle
3 expense, health care benefits, life insurance, retirement and any other cost
4 or expense associated with employment. Reimbursement for travel and
5 subsistence expenses for commission or committee employees shall be in the
6 amount prescribed by title 38, chapter 4, article 2. All employees of the
7 commission or committee are exempt from title 38, chapter 4, articles 1 and 4
8 AND CHAPTER 5, ARTICLE 2 and title 41, chapter 4, articles 5 and 6 and are
9 not under the jurisdiction of the department of administration.

10 B. The commission or committee may also enter into an interagency
11 agreement pursuant to title 11, chapter 7, article 3 with the department to
12 provide necessary administrative services to the commission or committee
13 including:

14 1. Providing secretarial and other services necessary for the
15 commission or committee to carry out its activities.

16 2. Establishing separate operating accounts for the commission or
17 committee.

18 3. Providing necessary financial and accounting services to the
19 commission or committee including the issuance of checks, payment of bills
20 approved by the commission or committee, annual audits, expenditure and
21 receipt reports whether monthly or annually, preparation of annual budget and
22 any other activities requested by the commission or committee.

23 4. Receiving mail and other communication for the commission or
24 committee.

25 5. Receiving monies authorized under this article for
26 deposit, PURSUANT TO SECTIONS 35-146 AND 35-147, in the appropriate trust
27 funds ~~for the exclusive purpose of implementing, continuing and supporting~~
28 ~~the respective marketing order or marketing agreement. The commission or~~
29 ~~committee shall administer the trust fund as trustee. The state treasurer~~
30 ~~shall accept, separately account for and hold in trust any monies deposited~~
31 ~~in the state treasury, which are considered to be trust monies as defined in~~
32 ~~section 35-310 and which shall not be commingled with any other monies in the~~
33 ~~state treasury except for investment purposes. On notice from the commission~~
34 ~~or committee, the state treasurer shall invest and divest any trust fund~~
35 ~~monies deposited in the state treasury as provided by sections 35-313 and~~
36 ~~35-314.03, and monies earned from investment shall be credited to the trust~~
37 ~~fund. The beneficiary of the trust is the agricultural program established~~
38 ~~by the marketing order or marketing agreement. The trust fund shall be used~~
39 ~~solely for those purposes on the order of the commission or committee.~~
40 ~~Surplus monies, including any unexpended and unencumbered balance at the end~~
41 ~~of the fiscal year or at the termination of the marketing order or agreement,~~
42 ~~do not revert to the state general fund.~~

43 6. Accepting donated monies on behalf of the commission or committee
44 to be credited to the account of the commission or committee.

45 7. Providing space for the meetings of the commission or committee.

1 8. Providing any other administrative services that the commission or
2 committee requests or finds necessary.

3 C. If the department performs any function under this article, it acts
4 as the agent of the marketing commission or marketing committee and has no
5 authority or control over the commission or committee or the commission's or
6 committee's employees or assets. The commission or committee shall reimburse
7 the department for any administrative services the department provides from
8 the monies received under the marketing order or marketing agreement in an
9 amount agreed on by the commission or committee and the director. Any
10 services provided by citrus, fruit and vegetable standardization or the
11 department in the normal scope of services are not subject to reimbursement
12 from a marketing commission or marketing committee.

13 Sec. 62. Section 3-417, Arizona Revised Statutes, as amended by this
14 act, is amended to read:

15 3-417. Assessments; collection; budget

16 A. The annual assessment rate shall not exceed five per cent of the
17 annual gross sales dollar value of the affected commodity determined by the
18 preceding marketing season. Not more than two per cent of the annual gross
19 sales dollar value of the affected commodity may be used to pay costs
20 associated with administering the marketing order. Assessment rates may be
21 set on a per carton or equivalent basis.

22 B. Each marketing order shall state a method of collection. For the
23 initial year, an advance deposit of not more than ten per cent of the total
24 assessments owing may be collected from affected persons based on the
25 preceding marketing season. If the marketing order affects producers only or
26 if the marketing order affects both producers and shippers, the shipper shall
27 withhold the assessments owed by the producer pursuant to the marketing
28 order. The shipper is a trustee of the assessments until they are paid to
29 the marketing commission. If the marketing order affects producers only, a
30 producer is responsible for paying the assessments unless the assessments are
31 withheld for payment by the shipper.

32 C. Each affected person shall keep a complete and accurate record of
33 all of the affected commodity sold by the affected person. The records shall
34 contain the information required to be kept for the citrus, fruit and
35 vegetable REVOLVING ~~trust~~ fund pursuant to articles 2 and 4 of this chapter
36 and rules adopted pursuant to those articles.

37 D. Except for the first year of operation, on or before July 1 of each
38 year, the marketing commission or marketing committee shall set an assessment
39 according to the maximum rate of assessment established by this article, the
40 marketing order or marketing agreement. Before establishing the assessment
41 rate, the commission or committee shall establish an annual budget. The
42 budget is effective on approval of the commission or committee.

43 E. Title 41, chapter 6 does not apply to setting and collecting the
44 assessment under this section, but the commission or committee shall provide
45 fifteen days' advance notice of the meeting at which the assessment will be

1 adopted and the amount of the proposed assessment. The commission or
2 committee shall receive public testimony at the meeting regarding the
3 assessment.

4 Sec. 63. Section 3-447, Arizona Revised Statutes, as amended by this
5 act, is amended to read:

6 3-447. Citrus, fruit and vegetable fund; administration

7 A. The citrus, fruit and vegetable REVOLVING trust fund is established
8 ~~CONSISTING for the exclusive purpose of implementing, continuing and~~
9 ~~supporting the agricultural program established by this article and article 4~~
10 ~~of this chapter. The trust fund consists of revenues from assessments and~~
11 ~~other monies designated for deposit in the trust fund by this article and~~
12 ~~article 4 of this chapter IN ORDER TO PROVIDE THE NECESSARY MONIES TO ENFORCE~~
13 ~~THIS ARTICLE AND ARTICLE 4 OF THIS CHAPTER. The trust fund shall be used~~
14 ~~solely for the purpose of administering and enforcing the provisions of this~~
15 ~~article and article 4 of this chapter.~~

16 B. ~~MONIES IN THE FUND MAY BE INVESTED the director shall administer~~
17 ~~the trust fund as trustee. The state treasurer shall accept, separately~~
18 ~~account for and hold in trust any monies deposited in the state treasury,~~
19 ~~which are considered to be trust monies as defined in section 35-310 and~~
20 ~~which shall not be commingled with any other monies in the state treasury~~
21 ~~except for investment purposes. On notice from the director, the state~~
22 ~~treasurer shall invest any trust fund monies deposited in the state treasury~~
23 ~~pursuant to SECTION sections 35-313 and 35-314.03, and all interest earned on~~
24 ~~these monies shall be credited to the trust fund.~~

25 C. ~~The beneficiaries of the trust are the agricultural programs~~
26 ~~established by this article and article 4 of this chapter.~~

27 D. ~~C. Monies in the trust fund are exempt from the provisions of~~
28 ~~section 35-190 relating to lapsing of appropriations. Surplus monies,~~
29 ~~including any unexpended and unencumbered balance at the end of the fiscal~~
30 ~~year, do not revert to the state general fund.~~

31 E. ~~D. The department shall make a detailed accounting on or before~~
32 ~~November 1 of each year of all monies paid into and disbursed from the~~
33 ~~citrus, fruit and vegetable REVOLVING trust fund during the preceding fiscal~~
34 ~~year and transmit the report to the citrus, fruit and vegetable advisory~~
35 ~~council on or before December 1.~~

36 F. ~~E. Any monies remaining unexpended in the trust fund on June 30~~
37 ~~each year shall be carried forward to the following year, and the supervisor~~
38 ~~shall take that amount into account in computing the assessments for that~~
39 ~~year.~~

40 Sec. 64. Section 3-448, Arizona Revised Statutes, as amended by this
41 act, is amended to read:

42 3-448. Assessments; procedures; failure to pay; penalty and
43 interest; hearing

44 A. In order to provide the necessary monies to enforce this article
45 and article 4 of this chapter, the supervisor shall assess a charge against

1 each shipper in an amount of not more than one and one-fourth cents per
2 standard carton, or the equivalent weight, of each kind of fruit and
3 vegetable, including citrus, shipped and regulated under this article and
4 article 4 of this chapter. For bulk shipments of citrus used for by-products
5 with destinations both inside and outside this state a charge is assessed of
6 not more than two dollars for each lot.

7 B. All monies collected from the assessments under this section shall
8 be paid to the citrus, fruit and vegetable REVOLVING ~~trust~~ fund.

9 C. The supervisor, pursuant to section 3-527.02, shall set the amount
10 of the charges under this section annually with the approval of the director,
11 but not in amounts greater than necessary to provide revenues to defray all
12 of the proper expenses of carrying out the provisions of this article and
13 article 4 of this chapter. The supervisor may establish assessments for each
14 commodity based on the time that is necessary to inspect the commodity.

15 D. Before the supervisor may set or the director may approve an
16 increase in the assessment, the supervisor shall provide thirty days' advance
17 notice of a public hearing and the amount of the proposed assessment to all
18 shippers who are licensed under sections 3-449 and 3-492 and to any other
19 interested party. The supervisor shall receive testimony at the hearing
20 regarding the proposed increase in the assessment. Title 41, chapter 6 does
21 not apply to setting or collecting assessments under this section.

22 E. The supervisor shall compute the amount of assessments within the
23 limits of this section and may bill the assessments twice monthly. Each
24 shipper shall pay the charges to the supervisor within sixty days after the
25 billing date.

26 F. A shipper who fails to pay the required assessment within sixty
27 days after the billing date is subject to a penalty of ten per cent of the
28 amount of the total assessment plus interest at a rate of two per cent per
29 month on the unpaid balance.

30 G. A shipper may request a hearing before the supervisor to protest
31 the amount of assessment, penalty or interest imposed. If requested, the
32 supervisor shall hold the hearing. After the hearing the supervisor shall
33 enter an order determining the amount of the fee, penalty and interest. The
34 shipper shall pay that amount within ten days after notice of the
35 supervisor's determination unless the decision is appealed to the director.
36 The shipper may appeal the decision of the supervisor to the director. If
37 the supervisor's decision is appealed, the director shall review the record
38 of the hearing and affirm, modify or reverse the supervisor's decision.

39 H. For the purposes of this section, in addition to the definition of
40 shipper contained in section 3-441, "shipper" shall also include shipper as
41 defined in section 3-481.

1 Sec. 65. Section 3-449, Arizona Revised Statutes, as amended by this
2 act, is amended to read:

3 3-449. Annual licensing; fee; application

4 A. No person shall transact business as a citrus fruit dealer, packer
5 or shipper without first obtaining a license as provided in this
6 article. The license expires on August 1 of each year and is renewable
7 annually. The license fee shall be determined according to the annual gross
8 sales based on the dealer's or shipper's previous fiscal year as follows:

9 1. If the annual gross sales are five hundred thousand dollars or
10 more, the annual fee is four hundred fifty dollars.

11 2. If the annual gross sales are between two hundred thousand dollars
12 and five hundred thousand dollars, the annual fee is three hundred dollars.

13 3. If the annual gross sales are two hundred thousand dollars or less,
14 the annual fee is one hundred fifty dollars.

15 4. If the person was not in business the previous fiscal year, the
16 annual fee is one hundred fifty dollars.

17 B. The application for a packer license shall be filed with the
18 supervisor and be accompanied by an annual license fee of one hundred fifty
19 dollars.

20 C. If a person engages in business in more than one category as a
21 dealer, shipper or packer, the license designation shall be based on the
22 category in which most of the licensee's business is conducted.

23 D. The license fees collected by the supervisor shall be paid into the
24 citrus, fruit and vegetable REVOLVING trust fund.

25 E. The application for a dealer, shipper or packer license shall
26 contain the following information:

27 1. The full name of the person applying for the license.

28 2. Whether the applicant is an individual, partnership, firm,
29 corporation, association, trust or cooperative association and the full name
30 of each member of the partnership or firm, the full name of each officer and
31 director of the association or corporation or the full name of each trustee.

32 3. The principal business address of the applicant in this state and
33 elsewhere and the address where the applicant conducts the described
34 business.

35 4. The name of the statutory agent in this state for service of legal
36 notice.

37 5. The category of license for which the applicant is applying.

38 6. A statement of the facts, signed under penalty of perjury,
39 entitling the applicant to a license under the applicable category and
40 stating whether the applicant has ever had any license to handle citrus,
41 fruit or vegetables in any state denied, suspended or revoked.

42 7. If the applicant acts as a commission merchant, a schedule of
43 commissions and charges for services, which may not be altered during the
44 term of the license except by written agreement between the parties involved.

1 F. The supervisor shall issue to the applicant a license to conduct
2 the business described for a period of one year unless it is revoked for
3 cause.

4 G. An applicant who tenders a renewal application for a license that
5 is received by the supervisor after August 15 shall pay a penalty of
6 twenty-five dollars. An applicant who tenders a renewal application for a
7 license that is received after September 1 shall pay a penalty of fifty
8 dollars. All penalties shall be deposited in the citrus, fruit and vegetable
9 REVOLVING trust fund.

10 Sec. 66. Section 3-449.04, Arizona Revised Statutes, as amended by
11 this act, is amended to read:

12 3-449.04. Appeals from inspections

13 A. If the owner, or the owner's agent, of all or part of a lot
14 disagrees with the decision of an inspector as to whether the lot or part of
15 the lot conforms to the standards adopted pursuant to this article, the owner
16 or agent may request that the supervisor or the supervisor's designee, other
17 than the inspector, review the testing procedures used by the inspector.
18 When reviewing the procedures, the supervisor or designee shall consider the
19 accuracy of the test instruments, the inspection methods, including the
20 sample size, the defect determination, the percentage of the defective
21 product and any other relevant information.

22 B. The supervisor or designee shall conduct the review within eight
23 hours of the request.

24 C. If the supervisor or designee determines that the inspector used
25 improper testing procedures, a new inspection shall be ordered of the lot or
26 part of the lot within four hours after completing the review in order to
27 determine compliance. The determination after the reinspection is final.

28 D. The person who requests the review shall pay a fee of twenty-five
29 dollars for the review. All monies collected under this subsection shall be
30 deposited in the citrus, fruit and vegetable REVOLVING trust fund.

31 Sec. 67. Section 3-450, Arizona Revised Statutes, as amended by this
32 act, is amended to read:

33 3-450. Exemption from citrus fruit standardization; definitions

34 A. The supervisor shall exempt any citrus fruit commodity from all
35 rules established pursuant to section 3-445, subsection B, paragraphs 1
36 through 5 and shall exempt the collection of assessments for the commodity
37 subject to this article if the exemption is supported by at least fifty-one
38 per cent of the producers who produce at least fifty-one per cent of the
39 total quantity of that particular citrus fruit commodity that was marketed
40 during the preceding year and all of the other requirements of this section
41 have been met. For the purposes of this subsection, "quantity" means the
42 percentage of ownership interest a producer has in the marketed cartons.

43 B. To initiate the exemption process, a producer or shipper shall
44 present to the supervisor a petition signed by producers, under penalty of
45 perjury, who represent at least one-third of the cartons of the commodity

1 produced in the previous year. The petition shall be submitted on a form
2 prescribed and furnished by the supervisor. On receiving the petition, the
3 supervisor shall negotiate with the petitioner a fee for the estimated costs
4 of the notification, balloting and certification process under this section.
5 The petitioner is responsible for all costs associated with this process and
6 shall pay to the supervisor at least one-half of the fee before proceeding
7 with the petition process.

8 C. Within ten days after receiving the fee payment under subsection B
9 of this section, the supervisor shall send a notice and a ballot to each
10 shipper of the commodity by certified mail, return receipt requested. The
11 notice shall include a statement that the shipper shall notify each producer
12 the shipper represents of the exemption petition and of the producer's right
13 to support or oppose the exemption.

14 D. Within sixty days after receiving the notice from the supervisor,
15 each shipper shall return the ballot to the supervisor, filed under penalty
16 of perjury, containing the following information:

17 1. The name of each producer of the particular commodity that the
18 shipper deals with.

19 2. The total number of cartons produced in the preceding year by each
20 producer based on the percentage of ownership.

21 3. The vote of each producer based on the percentage of ownership of
22 cartons.

23 E. If a shipper fails to return the ballot as prescribed by subsection
24 D of this section, the supervisor may audit the shipper to ensure compliance
25 with section 3-449.03.

26 F. Within ninety days after receiving the ballots issued under this
27 section, the supervisor shall review the ballots and determine the results.
28 On payment of the full amount of the costs of the petition process as
29 determined under subsection B of this section, the supervisor shall certify
30 and issue the results of the ballots. If the supervisor certifies that the
31 ballots meet the requirements of this section, the supervisor shall provide
32 public notice of the date the exemption becomes effective, which shall be
33 within ninety days after the supervisor certifies and issues the results of
34 the balloting.

35 G. Information provided by shippers to the supervisor for purposes of
36 this section is confidential and is not a public record, and the supervisor
37 shall not disclose the information for any purpose except for the purpose of
38 an appeal under subsection H of this section.

39 H. The petitioner and any producer or shipper of the commodity for
40 which exemption is being sought has the right to appeal to the director on
41 any of the following issues:

42 1. The validity of the petition submitted under subsection B of this
43 section.

44 2. The notice requirements of this section.

45 3. The sufficiency of the submitted ballots.

- 1 4. The costs of the petition process.
- 2 I. All monies collected by the supervisor pursuant to this section
- 3 shall be deposited in the citrus, fruit and vegetable REVOLVING ~~trust~~ fund
- 4 established by section 3-447.
- 5 J. The procedures prescribed by this section also apply for producers
- 6 and shippers to rescind an exemption that was previously granted under this
- 7 section. The rescission becomes effective on July 1 of a year as determined
- 8 by the supervisor. No rescission may take effect until the exemption has
- 9 been in effect for at least two years.
- 10 K. For the purposes of this section:
- 11 1. "Producer" means a single legal entity that has a percentage
- 12 ownership interest in the marketed commodity.
- 13 2. "Year" means July 1 through June 30.
- 14 Sec. 68. Section 3-466, Arizona Revised Statutes, as amended by this
- 15 act, is amended to read:
- 16 3-466. Civil penalty; hearing
- 17 A. A person is subject to a civil penalty of not more than five
- 18 hundred dollars, if the person does either of the following:
- 19 1. Acts as a dealer, shipper or packer without a valid license.
- 20 2. Knowingly falsifies or causes to be falsified information in a
- 21 record intended to show proof of ownership.
- 22 B. A person shall be subject to a civil penalty of not more than three
- 23 hundred dollars, if the person does any of the following:
- 24 1. Makes a written or oral false, deceptive or misleading
- 25 representation or assertion concerning the quality, size, maturity or
- 26 condition of citrus fruit.
- 27 2. Alters, removes or destroys a warning notice from a lot or part of
- 28 a lot to which it was affixed except on written authorization of an
- 29 inspector, the supervisor or the director or by court order.
- 30 3. Alters a notice of noncompliance, notice of compliance or notice of
- 31 disposal that is issued by an inspector.
- 32 4. Refuses to submit any container or lot of citrus fruit governed
- 33 pursuant to this article to an inspection of a representative sample or to
- 34 refuse to stop and permit inspection of a representative sample of any
- 35 commercial vehicle containing citrus fruit governed pursuant to this article.
- 36 C. A commission merchant is subject to a civil penalty of not more
- 37 than five hundred dollars, if the commission merchant does any of the
- 38 following:
- 39 1. Knowingly makes a false or misleading statement as to the condition
- 40 of any citrus fruit.
- 41 2. Makes a fraudulent charge or return for handling or selling citrus
- 42 fruit or for rendering any service in connection with handling or selling
- 43 citrus fruit.
- 44 3. Reconsigns a consignment to receive, collect or charge more than
- 45 one commission without the consent of the consignor.

1 4. Sells citrus fruit at less than market price to a person with whom
2 the consignment merchant has a direct or indirect financial connection.

3 5. Makes a sale and directly or indirectly receives a portion of the
4 purchase price other than the commission specified in the contract.

5 D. A person who is charged with violating this article or rules
6 adopted pursuant to this article may request a hearing pursuant to title 41,
7 chapter 6, article 10.

8 E. Civil penalties collected pursuant to this section shall be
9 deposited in the citrus, fruit and vegetable REVOLVING ~~trust~~ fund.

10 Sec. 69. Section 3-468.04, Arizona Revised Statutes, as amended by
11 this act, is amended to read:

12 3-468.04. Fees; collection; budget

13 A. On or before July 1 of each calendar year, the council shall assess
14 a fee of not more than one and one-half cents per standard carton of citrus
15 produced. For the purposes of this subsection, "standard carton" means a
16 container or package prescribed for each kind of citrus fruit pursuant to
17 article 2 of this chapter and rules adopted under that article.

18 B. Each grower-shipper, shipper and handler shall keep a complete and
19 accurate record of all citrus handled by such entities and the producer.
20 These records shall contain such information as required to be kept for the
21 citrus, fruit and vegetable REVOLVING ~~trust~~ fund pursuant to articles 2 and 4
22 of this chapter and rules adopted pursuant to those articles.

23 C. Assessments shall be collected from the grower-shipper, shipper or
24 handler first marketing the citrus being assessed. The grower-shipper,
25 shipper or handler is a trustee of the monies until they are paid to the
26 council pursuant to subsection B and according to procedures established
27 pursuant to articles 2 and 4 of this chapter and rules adopted pursuant to
28 those articles. A citrus producer is responsible for paying the fee unless
29 the fee is withheld for payment by the grower-shipper, shipper or handler
30 first marketing the citrus.

31 D. Before establishing the annual fee, the council shall establish a
32 budget. The budget is effective on approval of the council.

33 E. Title 41, chapter 6 does not apply to setting and collecting the
34 fee under this section, but the council shall provide thirty days' advance
35 notice of the meeting at which any fee will be increased and the amount of
36 the proposed fee. The council shall receive public testimony at the meeting
37 regarding the fee.

38 Sec. 70. Section 3-468.06, Arizona Revised Statutes, as amended by
39 this act, is amended to read:

40 3-468.06. Deposit of fees; use on termination

41 A. ~~The Arizona citrus trust fund is established for the exclusive~~
42 ~~purpose of implementing, continuing and supporting the agricultural program~~
43 ~~established by this article.~~ Monies collected pursuant to this article shall
44 be deposited in the COUNCIL'S ACCOUNTS THAT ARE ADMINISTERED BY THE
45 DEPARTMENT AS THE COUNCIL'S AGENT AND ~~trust fund~~.

1 ~~B. The council shall administer the trust fund as trustee. The state~~
2 ~~treasurer shall accept, separately account for and hold in trust any monies~~
3 ~~deposited in the state treasury, which are considered to be trust monies as~~
4 ~~defined in section 35-310 and which shall not be commingled with any other~~
5 ~~monies in the state treasury except for investment purposes. On notice from~~
6 ~~the director, the state treasurer shall invest and divest any trust fund~~
7 ~~monies deposited in the state treasury as provided by sections 35-313 and~~
8 ~~35-314.03, and monies earned from the investment shall be credited to the~~
9 ~~trust fund.~~

10 ~~C. The beneficiary of the trust is the agricultural program~~
11 ~~established by this article. Monies in the trust fund shall be disbursed as~~
12 ~~approved by the council exclusively for the purposes prescribed in this~~
13 ~~article.~~

14 ~~D. Surplus monies, including any unexpended and unencumbered balance~~
15 ~~at the end of the fiscal year, do not revert to the state general fund.~~

16 ~~E. B. If the council is terminated, any monies in the COUNCIL'S~~
17 ~~ACCOUNTS trust fund shall be expended to meet existing legal obligations of~~
18 ~~the council. The council shall expend any remaining monies on any program~~
19 ~~consistent with this article.~~

20 C. ON NOTICE FROM THE COUNCIL, THE STATE TREASURER SHALL INVEST AND
21 DIVEST MONIES IN THE ACCOUNT AS PROVIDED BY SECTION 35-313, AND MONIES EARNED
22 FROM INVESTMENT SHALL BE CREDITED TO THE ACCOUNT.

23 Sec. 71. Section 3-484, Arizona Revised Statutes, as amended by this
24 act, is amended to read:

25 3-484. Deputies and clerks; compensation; expenses

26 A. The compensation of the supervisor shall be as determined pursuant
27 to section 38-611. The supervisor, with the approval of the director, shall
28 fix the duties of each deputy and clerk. Compensation of the deputies and
29 clerks shall be as determined pursuant to section 38-611.

30 B. The compensation of the supervisor and all expenses properly
31 incurred in the enforcement of this article, including but not limited to
32 compensation, travel and subsistence expenses and office expenses, shall be
33 paid from the citrus, fruit and vegetable REVOLVING trust fund provided for
34 in section 3-447.

35 Sec. 72. Section 3-489, Arizona Revised Statutes, as amended by this
36 act, is amended to read:

37 3-489. Requests for inspection by unlicensed or unregistered
38 persons; fees

39 A. A person who is not licensed under article 2 of this chapter or
40 this article and who requests inspection of citrus, fruit, vegetables or nuts
41 shall pay a fee to the citrus, fruit and vegetable REVOLVING trust fund. The
42 supervisor shall set the amount of the fee by rule and shall assess and
43 collect the fee for inspection service performed by the supervisor or the
44 supervisor's employees. The fee shall be an amount reasonably necessary to
45 cover the costs of inspection and processing of the necessary documentation.

1 Before setting the fee, the supervisor shall consult with the citrus, fruit
2 and vegetable advisory council.

3 B. The fee is due and payable on completing the inspection. If the
4 fee is not paid, the supervisor may refuse to perform any further inspection
5 services.

6 C. The supervisor may prescribe a different scale of fees for
7 different locations and different commodities based on the amount of time
8 necessary to inspect the commodities. The supervisor may assess a charge for
9 traveling expenses pursuant to title 38, chapter 4, article 2.

10 D. This section does not apply to any inspection services performed
11 pursuant to article 1 of this chapter.

12 Sec. 73. Section 3-491, Arizona Revised Statutes, as amended by this
13 act, is amended to read:

14 3-491. Exemption from fruit or vegetable standardization;
15 definitions

16 A. The supervisor shall exempt any fruit or vegetable commodity from
17 all rules established pursuant to section 3-487, subsection B, paragraphs 1
18 through 5 and shall exempt the collection of assessments for the commodity
19 subject to this article if the exemption is supported by at least fifty-one
20 per cent of the producers who produce at least fifty-one per cent of the
21 total quantity of that particular fruit or vegetable commodity that was
22 marketed during the preceding year and all of the other requirements of this
23 section have been met. For the purposes of this subsection, "quantity" means
24 the percentage of ownership interest a producer has in the marketed cartons.

25 B. To initiate the exemption process, a producer or shipper shall
26 present to the supervisor a petition signed by producers, under penalty of
27 perjury, who represent at least one-third of the cartons of the commodity
28 produced in the previous year. The petition shall be submitted on a form
29 prescribed and furnished by the supervisor. On receiving the petition, the
30 supervisor shall negotiate with the petitioner a fee for the estimated costs
31 of the notification, balloting and certification process under this section.
32 The petitioner is responsible for all costs associated with this process and
33 shall pay to the supervisor at least one-half of the fee before proceeding
34 with the petition process.

35 C. Within ten days after receiving the fee payment under subsection B
36 of this section, the supervisor shall send a notice and a ballot to each
37 shipper of the commodity by certified mail, return receipt requested. The
38 notice shall include a statement that the shipper shall notify each producer
39 the shipper represents of the exemption petition and of the producer's right
40 to support or oppose the exemption.

41 D. Within sixty days after receiving the notice from the supervisor,
42 each shipper shall return the ballot to the supervisor, filed under penalty
43 of perjury, containing the following information:

1 1. The name of each producer of the particular commodity that the
2 shipper deals with.

3 2. The total number of cartons produced in the preceding year by each
4 producer based on the percentage of ownership.

5 3. The vote of each producer based on the percentage of ownership of
6 cartons.

7 E. If a shipper fails to return the ballot as prescribed by subsection
8 D of this section, the supervisor may audit the shipper to ensure compliance
9 with this article.

10 F. Within ninety days after receiving the ballots issued under this
11 section, the supervisor shall review the ballots and determine the results.
12 On payment of the full amount of the costs of the petition process as
13 determined under subsection B of this section, the supervisor shall certify
14 and issue the results of the ballots. If the supervisor certifies that the
15 ballots meet the requirements of this section, the supervisor shall provide
16 public notice of the date the exemption becomes effective, which shall be
17 within ninety days after the supervisor certifies and issues the results of
18 the balloting.

19 G. Information provided by shippers to the supervisor for purposes of
20 this section is confidential and is not a public record, and the supervisor
21 shall not disclose the information for any purpose except for the purpose of
22 an appeal under subsection H of this section.

23 H. The petitioner and any producer or shipper of the commodity for
24 which exemption is being sought has the right to appeal to the director on
25 any of the following issues:

26 1. The validity of the petition submitted under subsection B of this
27 section.

28 2. The notice requirements of this section.

29 3. The sufficiency of the submitted ballots.

30 4. The costs of the petition process.

31 I. All monies collected by the supervisor pursuant to this section
32 shall be deposited in the citrus, fruit and vegetable REVOLVING ~~trust~~ fund
33 established by section 3-447.

34 J. The procedures prescribed by this section also apply for producers
35 and shippers to rescind an exemption that was previously granted under this
36 section. The rescission becomes effective on July 1 of a year as determined
37 by the supervisor. No rescission may take effect until the exemption has
38 been in effect for at least two years.

39 K. For the purposes of this section:

40 1. "Producer" means a single legal entity that has a percentage
41 ownership interest in the marketed commodity.

42 2. "Year" means July 1 through June 30.

1 Sec. 74. Section 3-492, Arizona Revised Statutes, as amended by this
2 act, is amended to read:

3 3-492. Licensing dealers, shippers and packers; application;
4 fee

5 A. No person shall act as a dealer or shipper without first obtaining
6 a license as provided in this article. Application for the license shall be
7 filed with the supervisor and accompanied by a license fee determined
8 according to the annual gross sales based on the dealer's or shipper's
9 previous fiscal year as follows:

10 1. If the annual gross sales are five hundred thousand dollars or
11 more, the annual fee is five hundred dollars.

12 2. If the annual gross sales are between two hundred thousand dollars
13 and five hundred thousand dollars, the annual fee is three hundred fifty
14 dollars.

15 3. If the annual gross sales are two hundred thousand dollars or less,
16 the annual fee is two hundred dollars.

17 4. If the person was not in business the previous fiscal year, the
18 annual fee is two hundred dollars.

19 B. A person may not act as a packer without first obtaining a license
20 as provided in this article. The application for a packer license shall be
21 filed with the supervisor and accompanied by an annual license fee of two
22 hundred dollars.

23 C. If a person engages in business in more than one category as a
24 dealer, shipper or packer, the license designation shall be based on the
25 category in which most of the licensee's business is conducted.

26 D. The monies received as license fees under this section shall be
27 paid into the citrus, fruit and vegetable REVOLVING ~~trust~~ fund. The license
28 shall expire on September 1 of each year and is renewable annually.

29 E. The application for a dealer, shipper or packer license shall
30 contain the following information:

31 1. The full name of the person applying for the license.

32 2. Whether the applicant is an individual, partnership, firm,
33 corporation, association, trust or cooperative association and the full name
34 of each member of the partnership or firm, the full name of each officer and
35 director of the association or corporation or the full name of each trustee.

36 3. The principal business address of the applicant in this state and
37 elsewhere and the address where the applicant conducts the described
38 business.

39 4. The name of the statutory agent in this state for service of legal
40 notice.

41 5. The category of license for which the applicant is applying.

42 6. A statement of the facts, signed under penalty of perjury,
43 entitling the applicant to a license under the applicable category and
44 stating whether the applicant has ever had any license to handle citrus,
45 fruit or vegetables in any state denied, suspended or revoked.

1 7. If the applicant acts as a commission merchant, a schedule of
2 commissions and charges for services, which may not be altered during the
3 term of the license except by written agreement between the parties involved.

4 F. The supervisor shall issue to the applicant a license to conduct
5 the business described for a period of one year unless it is revoked for
6 cause.

7 G. An applicant who tenders a renewal application for a license that
8 is received by the supervisor after September 15 shall pay a penalty of
9 twenty-five dollars. An applicant who tenders a renewal application for a
10 license that is received after October 1 shall pay a penalty of fifty
11 dollars. All penalties shall be deposited in the citrus, fruit and vegetable
12 REVOLVING ~~trust~~ fund.

13 Sec. 75. Section 3-498, Arizona Revised Statutes, as amended by this
14 act, is amended to read:

15 3-498. Appeals from inspection

16 A. If the owner, or the owner's agent, of all or part of a lot
17 disagrees with the decision of an inspector as to whether the lot or part of
18 the lot conforms to the standards and other rules adopted pursuant to this
19 article, the owner or agent may request that the supervisor or the
20 supervisor's designee, other than the inspector, review the testing
21 procedures used by the inspector. When reviewing the procedures, the
22 supervisor or designee shall consider the accuracy of the test instruments,
23 the inspection methods, including the sample size, the defect determination,
24 the percentage of the defective product and any other relevant information.

25 B. The supervisor or designee shall conduct the review within eight
26 hours of the request. If the supervisor or designee determines that the
27 inspector used improper testing procedures, a new inspection shall be ordered
28 of the lot or part of the lot within four hours after completing the review
29 in order to determine compliance. The determination after the reinspection
30 is final.

31 C. The person who requests the review shall pay a fee of twenty-five
32 dollars for the review. All monies collected under this subsection shall be
33 deposited in the citrus, fruit and vegetable REVOLVING ~~trust~~ fund.

34 Sec. 76. Section 3-521, Arizona Revised Statutes, as amended by this
35 act, is amended to read:

36 3-521. Civil penalties; hearing

37 A. A person is subject to a civil penalty of not more than five
38 hundred dollars, if the person does either of the following:

- 39 1. Acts as a dealer, shipper or packer without a valid license.
40 2. Knowingly falsifies or causes to be falsified information in a
41 record intended to show proof of ownership.

42 B. A person shall be subject to a civil penalty of not more than three
43 hundred dollars, if the person does any of the following:

1 1. Makes a written or oral false, deceptive or misleading
2 representation or assertion concerning the quality, size, maturity or
3 condition of fruit or vegetables.

4 2. Alters, removes or destroys a warning notice from a lot or part of
5 a lot to which it was affixed except on written authorization of an
6 inspector, the supervisor or the director or by court order.

7 3. Alters a notice of noncompliance, notice of compliance or notice of
8 disposal that is issued by an inspector.

9 4. Refuses to submit any container or lot of fruit or vegetables
10 governed by this article to an inspection of a representative sample or
11 refuses to stop and permit inspection of a representative sample of any
12 commercial vehicle containing fruit and vegetables governed by this article.

13 C. A commission merchant is subject to a civil penalty of not more
14 than five hundred dollars, if the commission merchant does any of the
15 following:

16 1. Knowingly makes a false or misleading statement as to the condition
17 of any fruit or vegetable.

18 2. Makes a fraudulent charge or return for handling or selling a fruit
19 or vegetable or for rendering any service in connection with handling or
20 selling a fruit or vegetable.

21 3. Reconsigns a consignment to receive, collect or charge more than
22 one commission without the consent of the consignor.

23 4. Sells a fruit or vegetable at less than market price to a person
24 with whom the consignment merchant has a direct or indirect financial
25 connection.

26 5. Makes a sale and directly or indirectly receives a portion of the
27 purchase price other than the commission specified in the contract.

28 D. A person who is charged with violating this article or rules
29 adopted pursuant to this article may request a hearing before an
30 administrative law judge pursuant to title 41, chapter 6, article 10. The
31 decision of the administrative law judge is subject to review by the director
32 as provided by title 41, chapter 6, article 10.

33 E. Civil penalties collected pursuant to this section shall be
34 deposited in the citrus, fruit and vegetable REVOLVING ~~trust~~ fund.

35 Sec. 77. Section 3-526.04, Arizona Revised Statutes, as amended by
36 this act, is amended to read:

37 3-526.04. Fees; collection; budget

38 A. On or before July 1 of each calendar year, the council shall assess
39 a fee of not more than one-half cent per carton of packed iceberg lettuce or
40 bulk bins assessed according to forty-five pounds of equivalent weight of
41 iceberg lettuce prepared for market or an equivalent basis.

42 B. Each grower-shipper, shipper and handler shall keep a complete and
43 accurate record of all iceberg lettuce handled by such entities and the
44 producer. These records shall contain such information as required to be
45 kept for the citrus, fruit and vegetable REVOLVING ~~trust~~ fund pursuant to

1 articles 2 and 4 of this chapter and rules adopted pursuant to those
2 articles.

3 C. Assessments shall be collected from the grower-shipper, shipper or
4 handler first marketing the iceberg lettuce being assessed. The
5 grower-shipper, shipper or handler is a trustee of the monies until they are
6 paid to the council at the time and in the manner prescribed by the council.
7 An iceberg lettuce producer is responsible for paying the fee unless the fee
8 is withheld for payment by the grower-shipper, shipper or handler first
9 marketing the iceberg lettuce.

10 D. Before establishing the annual fee, the council shall establish a
11 budget. The budget is effective on approval of the council.

12 E. Title 41, chapter 6 does not apply to setting and collecting the
13 fee under this section, but the council shall provide thirty days' advance
14 notice of the meeting at which any fee will be increased and the amount of
15 the proposed fee. The council shall receive public testimony at the meeting
16 regarding the fee.

17 Sec. 78. Section 3-526.06, Arizona Revised Statutes, as amended by
18 this act, is amended to read:

19 3-526.06. Deposit of fees; use on termination

20 A. ~~The iceberg lettuce trust fund is established for the exclusive~~
21 ~~purpose of implementing, continuing and supporting the agricultural program~~
22 ~~established by this article. Monies collected pursuant to section 3-526.04~~
23 ~~shall be deposited in the COUNCIL'S ACCOUNTS THAT ARE ADMINISTERED BY THE~~
24 ~~DEPARTMENT AS THE COUNCIL'S AGENT AND trust fund.~~

25 B. ~~The council shall administer the trust fund as trustee. The state~~
26 ~~treasurer shall accept, separately account for and hold in trust any monies~~
27 ~~deposited in the state treasury, which are considered to be trust monies as~~
28 ~~defined in section 35-310 and which shall not be commingled with any other~~
29 ~~monies in the state treasury except for investment purposes. On notice from~~
30 ~~the director, the state treasurer shall invest and divest any trust fund~~
31 ~~monies deposited in the state treasury as provided by sections 35-313 and~~
32 ~~35-314.03, and monies earned from the investment shall be credited to the~~
33 ~~trust fund.~~

34 C. ~~The beneficiary of the trust is the agricultural program~~
35 ~~established by this article. Monies in the trust fund shall be disbursed as~~
36 ~~approved by the council exclusively for the purposes prescribed in this~~
37 ~~article.~~

38 D. ~~Surplus monies, including any unexpended and unencumbered balance~~
39 ~~at the end of the fiscal year, do not revert to the state general fund.~~

40 E. B. If the council is terminated, any monies in the COUNCIL'S
41 ACCOUNTS ~~trust fund~~ shall be expended to meet existing legal obligations of
42 the council. The council shall expend any remaining monies on any program
43 consistent with this article.

44 C. THE MONIES IN THE ACCOUNT MAY BE INVESTED PURSUANT TO SECTION
45 35-313. INTEREST EARNED ON THESE MONIES SHALL BE CREDITED TO THE ACCOUNT.

1 Sec. 79. Section 3-584, Arizona Revised Statutes, as amended by this
2 act, is amended to read:

3 3-584. Powers and duties of the council

4 A. The council shall:

5 1. Meet at least once during each calendar quarter and more frequently
6 on the call of the chairman, vice-chairman or any three members of the
7 council.

8 2. Annually elect a chairman from among its members.

9 3. Elect a secretary and a treasurer from among its members.

10 4. Establish an executive committee, consisting of the chairman,
11 secretary and treasurer. The executive committee shall act pursuant to
12 direction received from the full council, or if the situation arises, the
13 executive committee shall act and then bring the subject and its action
14 before the full council at the next regular meeting of the council for review
15 and ratification.

16 5. Establish fees to be assessed within the limits prescribed in
17 section 3-587 ~~to be held in trust in, and subject to the terms and conditions~~
18 ~~prescribed for, the Arizona grain research trust fund established by section~~
19 ~~3-590.~~

20 B. Programs and projects authorized under this article may include:

21 1. Cooperation in state, regional, national or international
22 activities with public or private organizations or individuals to assist in
23 developing and expanding markets and reducing the cost of marketing grain and
24 grain products.

25 2. Participation in research projects and programs to assist in
26 reducing fresh water consumption, developing new grain varieties, improved
27 production and handling methods, research and design of new or improved
28 harvesting and handling equipment.

29 3. Any program or project that the council determines appropriate to
30 provide education, publicity or other assistance to facilitate further
31 development of the Arizona grain industry.

32 C. The council may:

33 1. Adopt administrative rules necessary to promptly and effectively
34 administer this article.

35 2. Appoint subordinate officers and employees of the council,
36 prescribe their duties and fix their compensation.

37 3. Accept donations of monies, property, services or other assistance
38 from public or private sources for the purpose of furthering the objectives
39 of this article. ~~All donations of monies shall be held in trust in, and~~
40 ~~subject to the terms and conditions prescribed for, the Arizona grain~~
41 ~~research trust fund established by section 3-590.~~

42 4. Investigate and prosecute in the name of this state any action or
43 suit to enforce the collection or ensure payment of the fees authorized and
44 sue and be sued in the name of the council.

1 5. Make grants to research agencies for financing appropriate studies,
2 research projects and programs to assist in reducing fresh water consumption,
3 developing new grain varieties, improved production and handling methods and
4 research and design of new or improved harvesting and handling equipment.

5 Sec. 80. Section 3-590, Arizona Revised Statutes, as amended by this
6 act, is amended to read:

7 3-590. Arizona grain research fund

8 A. The Arizona grain research ~~trust~~ fund is established for the
9 exclusive purpose of ADMINISTERING ~~implementing, continuing and supporting~~
10 ~~the agricultural program established by this article.~~ The council shall
11 administer the ~~trust~~ fund as ~~trustee~~. The ~~trust~~ fund consists of fees
12 collected pursuant to this article.

13 ~~B. The beneficiary of the trust is the agricultural program~~
14 ~~established by this article. The trust fund shall be used exclusively for~~
15 ~~the purposes of this article on the order of the council.~~

16 ~~C. The state treasurer shall accept, separately account for and hold~~
17 ~~in trust monies deposited in the state treasury, which are considered to be~~
18 ~~trust monies as defined by section 35-310 and which shall not be commingled~~
19 ~~with any other monies in the state treasury except for investment purposes.~~
20 On notice from the council, the state treasurer shall invest and divest
21 MONIES IN THE ~~trust~~ fund ~~monies deposited in the state treasury~~ as provided
22 by SECTION ~~sections~~ 35-313 and ~~35-314.03~~, and monies earned from investment
23 shall be credited to the ~~trust~~ fund.

24 ~~D. B. Monies in the trust fund are exempt from the provisions of~~
25 ~~section 35-190 relating to lapsing of appropriations. Surplus monies,~~
26 ~~including any unexpended and unencumbered balance at the end of the fiscal~~
27 ~~year, do not revert to the state general fund.~~

28 ~~E. C. If the council is terminated, any monies remaining in the trust~~
29 ~~fund after terminating this article shall be expended to meet existing legal~~
30 ~~obligations of the council. The council shall expend any surplus remaining~~
31 ~~for market research or other lawful purposes under this article.~~

32 Sec. 81. Section 3-592, Arizona Revised Statutes, as amended by this
33 act, is amended to read:

34 3-592. Refund of fees

35 A producer may by the use of forms provided by the council, and on
36 presentation of such proof as the council may require, have the fee refunded.
37 A request for refund must be received in the office of the council within
38 sixty days following the payment of the fee ~~by the first buyer or the first~~
39 ~~purchaser.~~ The council shall ~~direct the state treasurer, as trustee, to make~~
40 refunds within thirty days of the request for refund if the fee sought to be
41 refunded has been received. The council shall adopt such rules as are
42 necessary to further ensure that the fees are refunded promptly.

1 Sec. 82. Section 3-710, Arizona Revised Statutes, as amended by this
2 act, is amended to read:

3 3-710. Powers and duties; preemption

4 A. The department may acquire and distribute to persons interested
5 useful information relative to the preparation for market, handling,
6 purchasing, transportation, storage and marketing of eggs and egg products,
7 including the demonstration of how to classify eggs and egg products in
8 accordance with the uniform standards and grades prescribed pursuant to this
9 chapter.

10 B. The department may issue in booklet form copies of this article
11 containing complete descriptive terms as to shell, aircell, white, yolk and
12 germ, and may make changes in definitions of terms and grades as they are
13 made and promulgated by the United States department of agriculture.

14 C. On request of the United States government, and others, the
15 director may negotiate and sign cooperative agreements to do inspection and
16 grading services and charge and receive payment for the reasonable cost
17 thereof. The monies received for such services shall be deposited, PURSUANT
18 TO SECTIONS 35-146 AND 35-147, in the state egg inspection trust fund.

19 D. When the production of papers, books and records relating to any
20 matter under investigation is deemed advisable, the director may apply to the
21 superior court in any county for an order requiring the production of the
22 papers, books and records. If the court is satisfied that the papers, books
23 and records are pertinent to the matter under investigation, their production
24 shall be ordered.

25 E. A complaint filed with the department charging a noncompliance with
26 or violation of any provision of this article shall be in writing and signed
27 by the complainant.

28 F. The supervisor and inspectors shall enforce the provisions of this
29 article in conformity with rules adopted by the director. The refusal of an
30 officer authorized under this article to carry out the orders and directions
31 of the director in the enforcement of this article or prosecutions thereunder
32 is neglect of duty. The director shall make and enforce such rules as he
33 deems necessary to carry out the provisions of this article.

34 G. An inspector may enter and inspect any place or conveyance within
35 the state over which he has supervision where eggs are produced, candled,
36 incubated, stored, packed, delivered for shipment, loaded, shipped,
37 transported or sold, and may inspect all invoices, eggs and the cases and
38 containers thereof and equipment found in the places or conveyances, and may
39 take for inspection representative samples of the invoices, eggs and cases or
40 containers for the purpose of determining whether or not any provision of
41 this article has been violated.

42 H. An inspector, while enforcing the provisions of this article, may
43 seize and hold as evidence an advertisement, sign, placard, invoice, case or
44 container of eggs or egg products or all or any part of any pack, load, lot
45 consignment or shipment of eggs or egg products packed, stored, delivered for

1 shipment, loaded, shipped, transported or sold in violation of any provisions
2 of this article.

3 I. The department may prescribe minimum standards for egg processing
4 plants and sanitary standards for the processing of shell eggs. The
5 department shall establish these standards by rule. Chemicals used in egg
6 processing plants, sanitizers used in egg processing, egg soaps, egg oil and
7 other substances used in processing shell eggs are subject to the approval of
8 the director.

9 J. The director shall adopt rules for poultry husbandry and the
10 production of eggs sold in this state. This subsection does not apply to egg
11 producers operating or controlling the operation of one or more egg ranches
12 each having fewer than twenty thousand egg-laying hens producing eggs.

13 K. Consistency of poultry husbandry practices for the production of
14 eggs is a statewide matter. The regulation of poultry husbandry practices
15 related to the production of eggs is not subject to further regulation by a
16 county, city, town or other political subdivision of this state.

17 Sec. 83. Section 3-716, Arizona Revised Statutes, as amended by this
18 act, is amended to read:

19 3-716. Inspection fees; report and payment by dealers;
20 exception; penalty; collection

21 A. An inspection fee of not more than three mills per dozen on shell
22 eggs and three mills per pound on egg products shall be paid by a dealer,
23 producer-dealer, manufacturer or producer on all eggs and egg products
24 regardless of origin, sold to a retailer, hotel, hospital, bakery,
25 restaurant, other eating place or consumer for human consumption within this
26 state. Inspection fees on eggs used for the purpose of breaking, freezing or
27 drying shall be paid by the manufacturer, dealer or distributor if sold or
28 offered for sale to retailers or consumers for human consumption within this
29 state.

30 B. If it appears that the revenue derived from inspection fees is more
31 than is required for the administration of this article, the director may
32 decrease the inspection fee and at any time thereafter may increase or
33 decrease the inspection fee, but at no time shall it exceed an amount of
34 three mills per dozen on shell eggs or three mills per pound on egg products.

35 C. All manufacturers, dealers, producer-dealers and producers shall
36 file:

37 1. A quarterly report with the department showing the name and address
38 of the manufacturer, dealer, producer-dealer or producer.

39 2. The number of dozen of eggs or pounds of egg products sold or
40 delivered for the period to retail stores, hotels, hospitals, bakeries,
41 restaurants, other eating places or consumers for human consumption within
42 this state.

43 D. The report shall be accompanied by check or money order covering
44 the inspection fee total of a value equal to the inspection fee in force at

1 that time on all eggs or egg products shown on such report within thirty days
2 following the close of quarterly report periods.

3 E. The records shall be retained for a period of one year and shall be
4 open at all times to the inspection of the department.

5 F. Notwithstanding the requirements of this section, twenty-five cases
6 per year of nest run eggs as provided in section 3-715 may be sold by any
7 person to retailers or consumers without being subject to the report and
8 inspection fee as provided by this section.

9 G. In addition to the inspection fees prescribed by this section, a
10 penalty of ten per cent shall be added for the delinquent filing of any
11 report or the delinquent payment of any inspection fee, and if the report and
12 payment are not made within ten days after notification of delinquency, the
13 penalty shall be twenty-five per cent of the inspection fee. Persons filing
14 a false report shall be penalized fifty per cent of the amount due for
15 inspection fees. The penalties prescribed by this section shall be
16 deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the state egg
17 inspection trust fund.

18 H. Such inspection fees and penalties shall be collected by civil
19 action filed by the county attorney.

20 Sec. 84. Section 3-717, Arizona Revised Statutes, as amended by this
21 act, is amended to read:

22 3-717. State egg inspection fund

23 A. All fees provided by this article shall be paid to the department
24 that shall issue a receipt for such fees. IT SHALL REPORT TO THE DEPARTMENT
25 OF ADMINISTRATION THE TOTAL AMOUNT RECEIVED FROM ALL SOURCES AND the
26 department shall deposit, PURSUANT TO SECTIONS 35-146 AND 35-147, the full
27 amount in a special fund known as the state egg inspection trust fund. The
28 trust fund is established for the exclusive purpose of implementing,
29 continuing and supporting the agricultural program established by this
30 article.

31 B. The director shall administer the trust fund as trustee. The state
32 treasurer shall accept, separately account for and hold in trust any monies
33 deposited in the state treasury, which are considered to be trust monies as
34 defined in section 35-310 and which shall not be commingled with any other
35 monies in the state treasury except for investment purposes. On notice from
36 the director, the state treasurer shall invest and divest MONIES IN THE any
37 trust fund monies deposited in the state treasury pursuant to SECTION
38 sections 35-313 and 35-314.03, and monies earned from investment shall be
39 credited to the trust fund.

40 C. The beneficiary of the trust is the agricultural program
41 established by this article. The trust fund shall be used exclusively for
42 the purposes of this article on the order of the director.

1 D. C. Monies deposited in the state egg inspection trust fund:

2 1. SHALL BE SUBJECT TO SECTION 35-143.01.

3 2. Are exempt from the provisions of section 35-190 relating to
4 lapsing of appropriations. ~~Surplus monies, including any unexpended and~~
5 ~~unencumbered balance at the end of the fiscal year, do not revert to the~~
6 ~~state general fund.~~

7 Sec. 85. Section 3-911, Arizona Revised Statutes, as amended by this
8 act, is amended to read:

9 3-911. Conservation and public education

10 A. The department may conserve the highly safeguarded native plants
11 including the use, and encouraging the use, of all methods and procedures
12 that are necessary to bring the highly safeguarded native plants to the point
13 where they are no longer in need of federal protection as endangered or
14 threatened plants or state protection as highly safeguarded native plants.
15 These methods and procedures include all activities associated with
16 scientific resource management such as research, census, law enforcement,
17 habitat protection and maintenance, propagation and transplantation.

18 B. The department shall encourage commercial businesses engaged in
19 land development or other activities conducted on private land to salvage
20 protected native plants to the greatest extent feasible.

21 C. The department may produce, and collect reasonable fees for,
22 seminars, courses, pamphlets and other educational programs and publications
23 concerning the effect, intent and interpretation of this chapter, the
24 identification, nature or condition of protected native plants and the
25 feasibility and techniques for their conservation and salvage for
26 presentation and dissemination to:

27 1. State agencies and political subdivisions, including state and
28 local law enforcement agencies and counties or municipalities which have
29 enacted or consider enacting ordinances preserving protected native plants.

30 2. Real estate and other commercial businesses engaged in land
31 development and other activities conducted on private land.

32 3. Landowners and the public at large.

33 4. Persons or entities that are convicted of violating this chapter or
34 rules and ordinances adopted pursuant to this chapter and that are ordered by
35 the court to attend educational classes or programs as part of their
36 sentences.

37 D. Notwithstanding section 35-148, subsection A, the director shall
38 deposit any monies received under this section in the trust fund established
39 by section 3-913.

40 Sec. 86. Section 3-913, Arizona Revised Statutes, as amended by this
41 act, is amended to read:

42 3-913. Fiscal provisions; fees; Arizona protected native plant
43 fund

44 A. The department shall collect nonrefundable fees for issuing
45 permits, tags, seals and receipts under this article, except for scientific

1 purposes, from landowners moving protected plants from one of their
2 properties to another, or from the independent owner of residential property
3 of ten acres or less if no such plants are to be offered for sale.

4 B. The director shall establish the amount of the fee by rule to
5 reasonably reflect the cost to the department for administering this chapter
6 or to reflect the value of the service, permit, tag, seal or receipt,
7 including at least the following amounts:

8 1. For *cereus giganteus* (saguaro), at least three dollars for each
9 plant.

10 2. For native plants that the director determines to be useful for
11 revegetation and that cannot be salvaged economically at a higher fee, at
12 least twenty-five cents per plant.

13 3. For all other native plants, at least two dollars for each plant.

14 4. For all receipts for live harvest restricted native plants cut or
15 removed for wood, at least one dollar per cord.

16 5. For a permit for the by-products or fiber of harvest restricted
17 native plants, at least one dollar per ton.

18 C. The Arizona protected native plant trust fund is established for
19 ~~the exclusive purpose of implementing, continuing and supporting the program~~
20 ~~established by this chapter.~~ All fees and other monies collected under this
21 chapter except civil penalties assessed pursuant to section 3-933 or 3-934
22 shall be deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the trust
23 fund. THE MONIES DEPOSITED CONSTITUTE A SEPARATE AND PERMANENT FUND FOR USE
24 BY THE DIRECTOR, SUBJECT TO LEGISLATIVE APPROPRIATION, TO ADMINISTER AND
25 ENFORCE THIS CHAPTER. The director shall administer the trust fund as
26 trustee. ~~The state treasurer shall accept, separately account for and hold~~
27 ~~in trust any monies deposited in the state treasury, which are considered to~~
28 ~~be trust monies as defined in section 35-310 and which shall not be~~
29 ~~commingled with any other monies in the state treasury except for investment~~
30 ~~purposes.~~ On notice from the director, the state treasurer shall invest and
31 divest MONIES IN THE any trust fund monies deposited in the state treasury as
32 provided by SECTION sections 35-313 and 35-314.03 and monies earned from
33 investment shall be credited to the trust fund. The beneficiary of the trust
34 is the program established by this chapter. The trust fund shall be used
35 exclusively for the purposes of this chapter on the order of the director.
36 Surplus monies, including any unexpended and unencumbered balance at the end
37 of the fiscal year, do not revert to the state general fund.

38 Sec. 87. Section 3-1294, Arizona Revised Statutes, as amended by this
39 act, is amended to read:

40 3-1294. Improperly maintaining a stallion or jack;
41 classification; seizure and sale; expenses for care

42 A. A person who maintains a stallion or jack with reckless disregard
43 for the safety or health of other persons or property or livestock of another
44 is guilty of a class 2 misdemeanor.

1 B. In addition, the appropriate court, on affidavit by the livestock
2 officer, may issue an order to seize and impound the stallion or jack until
3 remedial action has been taken by the owner, agent or person in charge of the
4 stallion or jack. If no remedial action has been taken after twenty days,
5 the livestock officer shall sell the stallion or jack to the highest bidder
6 for cash at public auction. Immediately after the sale is made, or after
7 release to the owner who pays the hauling charges and expenses of feeding and
8 caring for the livestock, the livestock officer shall remit the proceeds to
9 the agency together with an itemized statement of the expense of the seizure
10 and sale, which shall be paid as other claims. The amount received by the
11 agency shall be deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in the
12 livestock custody ~~trust~~ fund established by section 3-1377 and retained until
13 final determination by the court of all actions arising from the seizure of
14 the stallion or jack.

15 Sec. 88. Section 3-1350, Arizona Revised Statutes, as amended by this
16 act, is amended to read:

17 3-1350. Registry of equine rescue facilities; fees

18 A. The department shall establish and maintain a registry of equine
19 rescue facilities and a public list of registered equine rescue facilities at
20 department offices and on the department's official website.

21 B. To be registered under this section an equine rescue facility must:

22 1. Be incorporated as a nonprofit corporation in this state.

23 2. Meet minimum standards prescribed by the department for:

24 (a) The physical condition of the facility.

25 (b) Equine care and treatment at the facility.

26 C. The term of registration is one year from the initial date of
27 registration, renewable annually.

28 D. For initial registration or annual renewal of registration, a
29 person representing the facility must file with the department:

30 1. A letter from a licensed veterinarian, dated within fifteen days of
31 filing, certifying that the facility meets the standards prescribed by the
32 department for the physical condition of the facility and for the care of
33 equines at the facility.

34 2. Documents demonstrating the facility's current status as a
35 nonprofit corporation in good standing in this state.

36 E. The registry shall include the documents filed for registration or
37 renewal of registration under subsection D of this section or a link to the
38 facility's website where the documents are displayed.

39 F. The director may:

40 1. Assess and collect fees for registering and renewing the
41 registration of equine rescue facilities under this section. Revenues from
42 the fees shall be deposited in the livestock custody ~~trust~~ fund established
43 by section 3-1377.

44 2. Adopt rules to implement this section.

1 Sec. 89. Section 3-1372, Arizona Revised Statutes, as amended by this
2 act, is amended to read:

3 3-1372. Keeping livestock following seizure; expenses; use of
4 livestock in criminal prosecution; sale of forfeited
5 livestock; nonliability of state

6 A. A livestock officer who has seized livestock, as provided by this
7 article, shall safely keep and care for it while it is under the department's
8 custody and control, during which time any person may inspect the livestock.

9 B. The expense of seizing, feeding and caring for livestock shall be
10 paid from any fund available to the division for that purpose. The division
11 shall recover its expenses as provided by this article.

12 C. At any time before the hearing on the ownership of the livestock,
13 the county attorney of the county in which the livestock is seized may take
14 charge of and keep the livestock at the expense of the state when the
15 livestock is of evidentiary value in any criminal prosecution arising from
16 the seizure.

17 D. If livestock is forfeited to this state and ordered to be sold, as
18 provided by this article, the department shall cause notice to be posted in
19 three public places in the precinct where the livestock is held stating that
20 the livestock will be sold at public auction for cash to the highest bidder.
21 The notice shall be posted for at least five days before the sale. The
22 notice shall state the location where the livestock will be sold. Proceeds
23 from the sale shall be transmitted to the department to be deposited in the
24 livestock custody ~~trust~~ fund established by section 3-1377, and on final
25 determination of all actions arising from the seizure of the livestock the
26 department shall pay the proceeds, less the hauling charges and expense of
27 feeding and caring for such livestock, to the persons entitled thereto under
28 the judgment of the court.

29 E. The director may contract with any person to handle, feed and care
30 for livestock taken into custody under this section. This state is not
31 liable for the injury or death of any person or livestock or damage to
32 property due to performance of the contract.

33 Sec. 90. Section 3-1377, Arizona Revised Statutes, as amended by this
34 act, is amended to read:

35 3-1377. Sale of seized stock; disposition of proceeds;
36 livestock custody fund

37 A. Livestock officers shall execute an order of sale made pursuant to
38 this article and deliver a bill of sale to the purchaser, describing the
39 livestock sold and the amount it sold for, and forward to the division a
40 duplicate of the bill of sale. On delivery of the bill of sale, title to the
41 livestock shall pass to the purchaser.

42 B. Immediately after the sale is made, or after release to the owner
43 who pays the hauling charges and expenses of feed and care of such livestock,
44 livestock officers shall remit the proceeds of the sale to the department,

1 together with an itemized statement of the expense of the seizure and sale,
2 which shall be paid as other claims.

3 C. The amount received by the department pursuant to this section and
4 sections 3-1294, 3-1350, 3-1372, 3-1402, 3-1403 and 3-1721 shall be
5 deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in a special fund
6 designated the livestock custody trust fund. ~~, Which is established for the~~
7 ~~exclusive purpose of implementing, continuing and supporting the agricultural~~
8 ~~program established by this chapter. The director shall administer the fund~~
9 ~~as trustee. The state treasurer shall accept, separately account for and~~
10 ~~hold in trust any monies deposited in the state treasury, which are~~
11 ~~considered to be trust monies as defined in section 35-310 and which shall~~
12 ~~not be commingled with any other monies in the state treasury except for~~
13 ~~investment purposes. On notice from the DEPARTMENT director, the state~~
14 ~~treasurer shall invest and divest MONIES IN THE any trust fund monies~~
15 ~~deposited in the state treasury as provided by SECTION sections 35-313 and~~
16 ~~35-314.03, and monies earned from investment shall be credited to the trust~~
17 ~~fund. The beneficiaries of the trust are the agricultural programs~~
18 ~~established by this chapter. The trust fund shall be used exclusively for~~
19 ~~the purposes of this chapter on the order of the director. The trust fund is~~
20 ~~exempt from the provisions of section 35-190 relating to lapsing of~~
21 ~~appropriations. Surplus monies, including any unexpended and unencumbered~~
22 ~~balance at the end of the fiscal year, do not revert to the state general~~
23 ~~fund.~~

24 D. THE LIVESTOCK CUSTODY FUND IS SUBJECT TO LEGISLATIVE APPROPRIATION
25 FOR USE BY THE DEPARTMENT FOR THE ENFORCEMENT OF ANY OF THE PROVISIONS OF
26 THIS TITLE.

27 Sec. 91. Section 3-1402, Arizona Revised Statutes, as amended by this
28 act, is amended to read:

29 3-1402. Holding and sale of stray animals; repossession before
30 and after sale; nonliability of state

31 A. Any person who finds a stray animal may attempt to locate and, if
32 located, notify the owner where the animal may be found. If the owner is
33 unknown or cannot be located, or the person elects not to locate or notify
34 the owner, the person shall notify the department and the department shall
35 follow procedures pursuant to this section.

36 B. A livestock officer or inspector who finds or is notified of a
37 stray animal shall attempt to locate the owner and, if located, notify the
38 owner where the animal may be found. If the owner does not take immediate
39 possession of the animal, or if the owner or claimant is unknown or cannot be
40 located, the livestock officer or inspector shall hold the stray animal for
41 at least seven days, but shall hold the stray animal up to fourteen days at
42 the request of any person or organization, and sell it at public auction to
43 the highest bidder for cash, after giving at least five days' notice of the
44 sale.

1 C. The department shall cause notice to be posted in three public
2 places in the justice precinct where the stray animal is held stating:

3 1. That the stray animal will be sold at public auction for cash to
4 the highest bidder.

5 2. The location where the stray animal will be held and the location
6 where the animal will be sold.

7 D. The owner of a stray animal may take possession of the animal at
8 any time prior to sale by proving ownership and paying the inspection fee and
9 all expenses incurred in keeping and caring for the animal.

10 E. If the owner of the stray does not claim the animal before the day
11 of sale, or if the owner is unknown or cannot be located, the livestock
12 officer or inspector shall sell the animal pursuant to the notice, and shall
13 deliver an invoice of sale or a livestock inspection certificate to the
14 purchaser. The owner of an animal sold may take possession of it at any time
15 before the purchaser sells it by paying to the purchaser the purchase price
16 paid at the sale, together with the expense of keeping and caring for the
17 animal from the date of sale to the time the owner takes possession of the
18 animal.

19 F. Livestock that is received at auction markets without proper
20 documentation but with no evidence of criminal intent by the shipper may be
21 sold, but the director shall impound the proceeds of the sale in the
22 livestock custody ~~trust~~ fund established by section 3-1377. On presentation
23 of proper documentation of ownership, the director shall pay the proceeds,
24 less any charges incurred, to the person who is entitled to the proceeds.

25 G. The director may contract with any person to handle, feed and care
26 for stray animals taken into custody under this section. This state is not
27 liable for the injury or death of any person or stray animal or damage to
28 property due to performance of the contract.

29 Sec. 92. Section 3-1403, Arizona Revised Statutes, as amended by this
30 act, is amended to read:

31 3-1403. Report by livestock officer or inspector; preliminary
32 disposition of proceeds of sale

33 A. On making the sale as provided by section 3-1402, the livestock
34 officer or inspector shall notify the division of the name of the purchaser,
35 the time and place of sale, the amount for which the animal was sold and a
36 description of the animal showing the marks and brands, if any, or other
37 identifying marks and shall pay to the department the net proceeds realized
38 at the sale.

39 B. The department shall place the amount realized from the sale of
40 stray animals in the livestock custody ~~trust~~ fund established by section
41 3-1377.

1 Sec. 93. Section 3-1721, Arizona Revised Statutes, as amended by this
2 act, is amended to read:

3 3-1721. Petition of seizure; notice of seizure; lien for
4 expenses; forced sale; disposition of proceeds;
5 nonliability of state; neglect or cruel treatment of
6 equine; civil penalty; legal representation

7 A. Any person or peace officer who believes that an equine is in poor
8 physical condition because of neglect or cruel treatment may petition on
9 affidavit a justice of the peace of the precinct or a city magistrate of the
10 city in which the equine is found for an order authorizing the department to
11 take possession of and provide care for the equine for a fifteen-day
12 period. The order shall not be issued unless the affidavit provides that the
13 livestock custody ~~trust~~ fund established by section 3-1377 has a balance that
14 permits the department to provide such care or that the department can
15 demonstrate that the expenses have been contracted for pursuant to subsection
16 E of this section. The clerk of the court or justice of the peace, as the
17 case may be, after filing and docketing the petition, shall enter a brief
18 statement of the petition on the docket and set a time for a hearing that is
19 not less than five and not more than fifteen days after the petition is
20 filed. The order shall state the time and place of the hearing.

21 B. On receiving the order the department shall take possession of the
22 equine. The department shall serve the order on the owner of the equine, if
23 known, at least twenty-four hours before the hearing, either by personal
24 service on the owner or by leaving a copy of the order with a person of
25 suitable discretion at the owner's residence or place of business. If the
26 owner is not known, the department shall give notice by posting a copy of the
27 order on the day of the seizure in a conspicuous place at the location where
28 the equine was seized and in at least two public places in the county where
29 the equine was seized. The order shall be served by a livestock officer,
30 constable or sheriff of the county.

31 C. If, at the hearing, it is determined that the equine at the time of
32 taking possession was not in poor physical condition because of neglect or
33 cruel treatment, the owner may immediately reclaim the equine and shall not
34 be liable for payment of any expense incurred in the handling, feeding and
35 care of the equine. Unless malice is proved, no action taken by an employee
36 of the department or by a peace officer pursuant to this article shall be
37 subject to civil or criminal liability.

38 D. On failure of the owner to be awarded immediate, expense-free
39 possession of the equine pursuant to subsection C of this section, the
40 department shall either sell the equine at public auction or, if the equine's
41 condition makes its sale impractical, dispose of the equine in the most
42 humane manner possible. The department shall deposit, PURSUANT TO SECTIONS
43 35-146 AND 35-147, the proceeds of the sale in the livestock custody ~~trust~~
44 fund established by section 3-1377 for distribution in the following
45 priority:

1 1. The department shall be reimbursed for auction, handling, feeding
2 and caring expenses.

3 2. Any monies derived from the sale in excess of the expenses to be
4 paid pursuant to paragraph 1 shall be paid to the owner of the equine. After
5 thirty days if the owner has not claimed the money, this money shall revert
6 to the livestock custody ~~trust~~ fund established by section 3-1377.

7 E. The director may contract with any person or group to handle, feed
8 and care for any equine taken into custody pursuant to this section. The
9 state shall not be liable for injury or death of any person or equine or
10 damage to property caused by the performance of the contract.

11 F. Notwithstanding any provision of this article to the contrary, the
12 county attorney of the county in which the equine was seized, at any time
13 prior to the expiration of fifteen days after the seizure of the equine, may
14 take charge of and keep the equine at the expense of the county when the
15 county attorney considers it to be of evidentiary value in any criminal
16 prosecution relating to the condition of the equine.

17 G. In addition to violating section 13-2910, a person who subjects an
18 equine to neglect or cruel treatment is subject to a civil penalty of not
19 more than seven hundred fifty dollars for each violation. All civil
20 penalties assessed pursuant to this subsection shall be deposited, pursuant
21 to sections 35-146 and 35-147, in the state general fund.

22 H. The county attorney of the county, or the city attorney of the
23 city, in which the livestock is seized may represent the livestock officer
24 and the interests of this state in proceedings under this section.

25 I. On receipt the department shall deposit, PURSUANT TO SECTIONS
26 35-146 AND 35-147, all monies, except civil penalties, collected pursuant to
27 this section or received as a money donation from any public or private
28 group, society, association or individual in the livestock custody ~~trust~~ fund
29 established by section 3-1377. The monies in the fund shall be used to
30 reimburse the department for expenses incurred in the handling, feeding, care
31 and auctioning of equines seized pursuant to this section.

32 Sec. 94. Section 3-2602, Arizona Revised Statutes, as amended by this
33 act, is amended to read:

34 3-2602. Administration and enforcement

35 A. In addition to other duties imposed by law, the associate director
36 of the division shall administer and enforce the provisions of this article
37 under the supervision of the director.

38 B. The salaries and expenses of travel and subsistence for employees
39 who administer and enforce this article shall be paid from the commercial
40 feed ~~trust~~ fund.

41 Sec. 95. Section 3-2604, Arizona Revised Statutes, as amended by this
42 act, is amended to read:

43 3-2604. Publications; membership in professional organizations

44 A. The department may publish at such times and in such form as the
45 director deems proper:

1 1. Information concerning the sale of commercial feeds and
2 customer-formula feeds together with such data on their production and use as
3 he may consider advisable, but the information concerning production and use
4 of commercial feeds and customer-formula feeds shall not disclose the
5 operations of any one person.

6 2. Reports of chemists' findings based on official samples of each
7 brand of commercial feed and customer-formula feed sampled and analyzed as
8 compared to the guaranteed chemical analysis for each such feed.

9 B. The director may authorize employees of the department to:

10 1. Join and subscribe to any state, district, regional or national
11 organization or publications relating to sale and distribution of or control
12 of sale and distribution of commercial feeds.

13 2. Attend state, district, regional and national meetings relating to
14 sale and distribution or control of sale and distribution of commercial
15 feeds.

16 C. Expenses authorized by this section shall be paid from and limited
17 by the commercial feed trust fund.

18 Sec. 96. Section 3-2607, Arizona Revised Statutes, as amended by this
19 act, is amended to read:

20 3-2607. Commercial feed fund

21 A. The commercial feed ~~trust~~ fund is established ~~for the exclusive~~
22 ~~purpose of implementing, continuing and supporting the agricultural program~~
23 ~~established by this article.~~ All monies collected under the provisions of
24 this article shall be deposited, PURSUANT TO SECTIONS 35-146 AND 35-147, in
25 the ~~trust~~ fund.

26 B. The director shall administer the fund as ~~trustee.~~ The ~~state~~
27 ~~treasurer shall accept, separately account for and hold in trust any monies~~
28 ~~deposited in the state treasury, which are considered to be trust monies as~~
29 ~~defined in section 35-310 and which shall not be commingled with any other~~
30 ~~monies in the state treasury except for investment purposes.~~ On notice from
31 the director, the state treasurer shall invest and divest MONIES IN THE any
32 trust fund monies deposited in the state treasury as provided by SECTION
33 sections 35-313 and ~~35-314.03~~, and monies earned from investment shall be
34 credited to the ~~trust~~ fund.

35 C. ~~The beneficiary of the trust is the agriculture program established~~
36 ~~by this article.~~ The trust fund shall be used solely for the purposes of
37 this article on the order of the director.

38 D. The commercial feed ~~trust~~ fund is exempt from the provisions of
39 section 35-190 relating to lapsing appropriations. ~~Surplus monies, including~~
40 ~~any unexpended and unencumbered balance at the end of the fiscal year, do not~~
41 ~~revert to the state general fund.~~

1 Sec. 97. Section 3-2913, Arizona Revised Statutes, as amended by this
2 act, is amended to read:

3 3-2913. Aquaculture fund

4 A. The aquaculture ~~trust~~ fund is established CONSISTING ~~for the~~
5 ~~exclusive purpose of implementing, continuing and supporting the agricultural~~
6 ~~program established by this article. The trust fund consists of revenues~~
7 received from fees and all other sources under this article except civil
8 penalties under section 3-2912. The monies collected constitute a separate
9 and permanent fund for the use of the director in administering and enforcing
10 this article.

11 B. The director shall administer the ~~trust~~ fund as trustee. The state
12 ~~treasurer shall accept, separately account for and hold in trust any monies~~
13 ~~deposited in the state treasury, which are considered to be trust monies as~~
14 ~~defined in section 35-310 and which shall not be commingled with any other~~
15 ~~monies in the state treasury except for investment purposes. On notice from~~
16 the director, the state treasurer shall invest and divest MONIES IN THE any
17 trust fund monies deposited in the state treasury as provided by SECTION
18 sections 35-313 and 35-314.03, and monies earned from investment shall be
19 credited to the ~~trust~~ fund.

20 C. ~~The beneficiary of the trust is the agricultural program~~
21 ~~established by this article.~~

22 ~~D.~~ C. Any monies remaining unexpended in the fund on June 30 each
23 year shall be carried forward to the following year and ~~do not revert to the~~
24 ~~state general fund.~~ the director shall take that amount into account in
25 computing and setting fees under this article for that year.

26 Sec. 98. Section 5-113, Arizona Revised Statutes, as amended by this
27 act, is amended to read:

28 5-113. Disposition of revenues and monies; funds; committee

29 A. All revenues derived from permittees, permits and licenses as
30 provided by this article shall be deposited, pursuant to sections 35-146 and
31 35-147, in the state general fund.

32 B. The Arizona county fairs racing betterment fund is established
33 under the jurisdiction of the department. The department shall distribute
34 monies from the fund to the county fair association or county fair racing
35 association of each county conducting a county fair racing meeting in such
36 proportion as the department deems necessary for the promotion and betterment
37 of county fair racing meetings. All expenditures from the fund shall be made
38 on claims approved by the department. In order to be eligible for
39 distributions from the fund, a county fair association must provide the
40 department with an annual certification in the form required by the
41 department supporting expenditures made from the fund. Balances remaining in
42 the fund at the end of a fiscal year do not revert to the state general fund.

43 C. The county fairs livestock and agriculture promotion fund is
44 established under the control of the governor and shall be used for the
45 purpose of promoting the livestock and agricultural resources of the state

1 and for the purpose of conducting an annual Arizona national livestock fair
2 by the Arizona exposition and state fair board to further promote livestock
3 resources. The direct expenses less receipts of the livestock fair shall be
4 paid from this fund, but such payment shall not exceed thirty per cent of the
5 receipts of the fund for the preceding fiscal year. Balances remaining in the
6 fund at the end of a fiscal year do not revert to the state general fund.
7 All expenditures from the fund shall be made upon claims approved by the
8 governor, as recommended by the livestock and agriculture committee, for the
9 promotion and betterment of the livestock and agricultural resources of this
10 state. The livestock and agriculture committee is established and shall be
11 composed of the following members, at least three of whom are from counties
12 that have a population of less than five hundred thousand persons, appointed
13 by the governor:

- 14 1. Three members representing county fairs.
- 15 2. One member representing Arizona livestock fairs.
- 16 3. One member representing the university of Arizona college of
17 agriculture.
- 18 4. One member representing the livestock industry.
- 19 5. One member representing the farming industry.
- 20 6. One member representing the governor's office.
- 21 7. One member representing the Arizona state fair conducted by the
22 Arizona exposition and state fair board.
- 23 8. One member representing the general public.
- 24 D. The governor shall appoint a chairman from the members. Terms of
25 members shall be four years.

26 E. Members of the committee are not eligible to receive compensation
27 but are eligible to receive reimbursement for expenses pursuant to title 38,
28 chapter 4, article 2.

29 F. The Arizona breeders' award fund is established under the
30 jurisdiction of the department. The department shall distribute monies from
31 the fund to the breeder, or the breeder's heirs, devisees or successors, of
32 every winning horse or greyhound foaled or whelped in this state, as defined
33 by section 5-114, in a manner and in an amount established by rules of the
34 commission to protect the integrity of the racing industry and promote,
35 improve and advance the quality of race horse and greyhound breeding within
36 this state. The department may contract with a breeders' association to
37 provide data, statistics and other information necessary to enable the
38 department to carry out the purposes of this subsection. Persons who are not
39 eligible to be licensed under section 5-107.01 or persons who have been
40 refused licenses under section 5-108 are not eligible to participate in the
41 Arizona greyhound breeders' award fund. Balances remaining in the fund at
42 the end of a fiscal year do not revert to the state general fund. For the
43 purposes of this subsection, "breeder" means the owner or lessee of the dam
44 of the animal at the time the animal was foaled or whelped.

1 G. The Arizona stallion award fund is established under the
2 jurisdiction of the department to promote, improve and advance the quality of
3 stallions in this state. The department shall distribute monies from the
4 fund to the owner or lessee, or the owner's or lessee's heirs, devisees or
5 successors, of every Arizona stallion whose certified Arizona bred offspring,
6 as prescribed in section 5-114, finishes first, second or third in an
7 eligible race in this state. The department may contract with a breeders'
8 association to provide data, statistics and other information necessary to
9 enable the department to carry out the purposes of this subsection. Balances
10 remaining in the fund at the end of a fiscal year do not revert to the state
11 general fund. The commission shall adopt rules pursuant to title 41, chapter
12 6 to carry out the purposes of this subsection. The rules shall prescribe at
13 a minimum:

14 1. The manner and procedure for distribution from the fund, including
15 eligibility requirements for owners and lessees.

16 2. Subject to availability of monies in the fund, the amount to be
17 awarded.

18 3. The requirements for a stallion registered with the jockey club,
19 Lexington, Kentucky or with the American quarter horse association, Amarillo,
20 Texas to be certified as an Arizona stallion.

21 4. The types and requirements of races for which an award may be made.

22 H. The greyhound and retired racehorse adoption fund is established.
23 The department shall administer the fund and maintain separate accounts for
24 greyhound adoptions and retired racehorse adoptions. All revenues derived
25 from license fees collected from dog breeders, racing kennels and other
26 operations pursuant to section 5-104, subsection F, paragraphs 7, 8 and 9
27 shall be deposited, pursuant to sections 35-146 and 35-147, in the greyhound
28 adoption account of the fund. All revenues derived from retired racehorse
29 adoption surcharges collected pursuant to section 5-104, subsection G shall
30 be deposited, pursuant to sections 35-146 and 35-147, in the retired
31 racehorse adoption account of the fund. The department shall distribute
32 monies from the fund to provide financial assistance to nonprofit enterprises
33 approved by the commission to promote the adoption of former racing
34 greyhounds as domestic pets and to promote the adoption of retired racehorses
35 pursuant to section 5-104, subsection G in a manner and in an amount
36 established by rules of the commission. Balances remaining in the fund at
37 the end of a fiscal year do not revert to the state general fund.

38 I. The county fair racing fund is established. The department shall
39 administer the fund. Monies in the fund are continuously appropriated. The
40 department shall use fund monies for the administration of county fair
41 racing. Any monies remaining unexpended in the fund at the end of the fiscal
42 year in excess of seventy-five thousand dollars shall revert to the state
43 general fund.

44 J. The agricultural consulting and training ~~trust~~ fund is established
45 ~~for the exclusive purpose of implementing, continuing and supporting.~~ MONIES

1 IN THE FUND ARE CONTINUOUSLY APPROPRIATED. THE ARIZONA DEPARTMENT OF
2 AGRICULTURE SHALL USE MONIES IN THE FUND FOR the agricultural consulting and
3 training program established by section 3-109.01. The director of the
4 Arizona department of agriculture shall administer the trust fund as trustee.
5 ~~The state treasurer shall accept, separately account for and hold in trust~~
6 ~~any monies deposited in the state treasury, which are considered to be trust~~
7 ~~monies as defined in section 35-310 and which shall not be commingled with~~
8 ~~any other monies in the state treasury except for investment purposes. On~~
9 ~~notice from the director, the state treasurer shall invest and divest any~~
10 ~~trust fund monies deposited in the state treasury as provided by sections~~
11 ~~35-313 and 35-314.03, and monies earned from investment shall be credited to~~
12 ~~the trust fund. The beneficiary of the trust is the agricultural consulting~~
13 ~~and training program established by section 3-109.01. Surplus monies,~~
14 ~~including Balances remaining in the trust fund at the end of a fiscal year do~~
15 ~~not revert to the state general fund.~~

16 Sec. 99. Delayed effective date

17 Sections 50 through 98 of this act are effective from and after
18 December 31, 2012.

APPROVED BY THE GOVERNOR APRIL 27, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 27, 2011.

Passed the House March 9, 20 11

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate April 13, 20 11

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]
President of the Senate

Charmen Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2312

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 20, 20 11

by the following vote: 53 Ayes,

6 Nays, 1 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 20, 20 11

by the following vote: 19 Ayes,

7 Nays, 7 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of April, 20 11

at 8:30 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 27th day of

April

at 2:35 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 27th day of April, 20 11

at 4:45 o'clock P. M.

[Signature]
Secretary of State

H.B. 2312